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THE LAW OF DISTRICT AND PARISH COUNCILS,

BEING THE

LOCAL GOVERNMENT ACT, 1894 :

INCLUDING

THE AGRICULTURAL GANGS ACT, 1867 ;
THE AGRICULTURAL HOLDINGS ACT, 1883 ;
THE ALLOTMENTS ACTS, 1887 AND 1890 ;
THE BATHS AND WASHHOUSES ACTS, 1846 TO 1882 ;
THE BURIAL ACTS, 1852 TO 1885 ; THE FAIRS ACTS, 1871 AND 1873 ;
THE INFANT LIFE PROTECTION ACT, 1872 ;
THE KNACKERS ACTS ;
THE LIGHTING AND WATCHING ACT, 1833 ;
THE PETROLEUM ACTS ; THE PUBLIC IMPROVEMENTS ACT, 1860 ;
THE PUBLIC LIBRARIES ACTS, 1892 AND 1893 ;
AND NUMEROUS EXTRACTS FROM OTHER STATUTES.

ALSO THE CIRCULARS AND ORDERS OF THE LOCAL GOVERNMENT
BOARD, AN EXPLANATORY INTRODUCTION, NUMEROUS NOTES,
AND A FULL INDEX.

By JOHN LITHIBY, LL.B. (LOND.),
OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW.



London :
EFFINGHAM WILSON, 11, ROYAL EXCHANGE, E.C.
1894.

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PREFACE.

THE establishment of District and Parish Councils completes the system of local government which was commenced in 1888 by the formation of County Councils.

The number and complexity of the areas to be dealt with, the frequent overlapping of districts, and the widely diverging interests which had to be accommodated, made any rearrangement of jurisdictions a matter of great difficulty. In the circumstances of our time it is next to impossible for the Legislature to pass a measure which in itself contains a complete system of local government law.

Accordingly it was necessary to resort to the plan of clothing the new authorities mainly by reference to powers contained in existing Statutes, without attempting to codify these, or even to present them in an altogether symmetrical shape.

The scheme of the present work is, first, to give a general outline of the election, powers, duties, and liabilities of the several councils—County, Parish, and District—so far as these are dealt with in the new Act; secondly, to set out the Act itself, with such notes and cross-references at the end of each section as are necessary to explain the text.

In the Appendix will be found a selection of Statutes relating to the duties of the new local authorities, including those which Parish Councils will be able to adopt, the orders and circulars of the Local Government Board issued up to the 20th May, 1894, and a copious Index.

J. L.

2, MITRE COURT BUILDINGS,
TEMPLE;
May, 1894.



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CHAPTER I.—PRELIMINARY.

THE main features of the Local Government Act, 1894, are the creation of parish councils, and the alteration in the qualifications for electing local authorities and boards of guardians. The urban and rural sanitary authorities which came into existence in 1872 are to give place to urban and rural district councils, but the change in this respect is more than a change of name. In addition to the duties transferred to district councils from the justices (p. 118), urban and rural district councils will have powers, duties, and liabilities which were not possessed by urban and rural sanitary authorities.

Parish councils and parish meetings are new creations, and a considerable number of duties have been transferred to them from existing authorities, whilst many new duties have been established and entrusted to their administration. What these are will be stated presently.

It is to be observed that county councils play an important part under the new Act, and, indeed, they have very responsible duties to perform with the view of bringing the Act into operation.

These duties relate largely to the readjustment of areas and boundaries in the respective counties. Hitherto there have been many parishes in more than one sanitary district, and many sanitary districts in more than one county. When the new Act comes into operation this state of things will be changed, and provision for the change must in some cases be made before the first elections are held.

Commencement of the Act ; "Appointed Day."—The Act does not begin to take effect until the month of November, 1894. Postponement to that period was rendered necessary by the fact that under the present electoral registers there would have been great difficulty in many places in deciding who was entitled to vote in the election of parish councillors. This difficulty will be removed when the new registers are made. Throughout the Act the date of its commencement is referred to as the "appointed day." That day is not a definite fixture for all places and purposes, but varies according to circumstances.

For the purpose of elections and of parish meetings in parishes not having a parish council, it is the day or respective days fixed for the first elections under the Act, or such prior day as may be necessary for the purpose of giving notices or doing other acts preliminary to such elections; for the purpose of the powers, duties, and liabilities of councils or other bodies elected under the Act, or other matters not specifically mentioned, it is the day on which the members of such councils or other bodies first elected come into office; and for the purpose of powers, duties, and liabilities transferred to a council of a borough by the Act, it is the first day of November, 1894 (p. 190).

During the interval the lists and registers of parochial electors entitled to vote at the first elections (p. 141) must be made out in such parts as may be necessary for the purposes of those elections (p. 190).

First Elections.—The existing boards of guardians and urban and rural sanitary authorities must take the necessary measures for the conduct of the first elections of guardians and district councillors respectively under the Act, including any appointment of returning officers required by rules under the Act.

Where a parish is divided by the Act into two or more new parishes, then, subject to any order made by the county council, there will be one guardian, and if it is in a rural district, one district councillor for each of such new parishes (p. 181).

The first elections under the Act are to be held on the 8th November, 1894, or such later date or dates in the year as the Local Government Board may fix.

The persons elected are to come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of the election rules made under the Act.

Every division into wards or alteration of the boundaries of any parish or union or district which is to affect the first election must, if it affects the parishes or parts for which the registers of parochial electors will be made, be made so far as practicable before the 1st July, 1894, and any such division or alteration which after the appointed day may be made on application by the parish council or any parochial electors of any parish, may be made before the appointed day on application by the vestry or a like number of the ratepayers of the parish.

If, however, any county council having any such division or alteration under consideration so direct, the lists of voters are to be framed in parts corresponding with such division or alteration, so that the parts may serve either for the unaltered parish, union, or district, or for the same when divided or altered; and if the county council making such division or alteration on or after the 1st July, and on or before the 31st August, 1894, so direct, the clerk of the county council must make such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward, union, or district in which his qualification is situate, and in that case the said division or alteration must be observed in the case of that election.

CHAPTER II.—COUNTY COUNCILS.

Duty of bringing the Act into Operation.—It is the duty of every county council to exercise such of their powers as may be requisite for bringing the Act into full operation within their county as soon as may be, and upon them devolves most of the administrative action necessary to settle the areas for which parish meetings will be held and parish councils elected. Much of the work to be done is necessarily such as a council can scarcely do by itself, and therefore advantage will, no doubt, be taken of the provision in Section 83 to delegate their powers under the Act to committees (p. 189).

Alterations of Areas and Boundaries.—The first point to be borne in mind is that every parish which at the passing of the Act is situate partly within and partly without a rural sanitary district will, as from the appointed day, be divided, so that the part in one sanitary district will constitute one parish, and the

part in another sanitary district (whether that other district be rural or urban) will constitute another parish (p. 65); and (unless the county council for special reasons otherwise direct) where a parish is at the passing of the Act in more than one urban district the several parts will, as from the appointed day, also constitute separate parishes (p. 130). In this way a number of new parishes will be created, each requiring a distinguishing name, and this name, in the case of rural parishes, the county council are empowered to settle (pp. 112 and 160).

But these provisions are subject to any alteration of area which the county council may make under the present Act, or under Section 57 of the Local Government Act, 1888, and it is probable that the circumstances of many of the parishes split up in the manner indicated will render alterations of area desirable before the Act comes into operation.

Accordingly, every county council must turn its attention to the provisions contained in Section 36 of the new Act (p. 129).

The county council of every administrative county should ascertain—

- (1) What parishes are partly in their county and partly in an adjoining county;
- (2) What rural sanitary districts are partly in their county and partly in the adjoining county;
- (3) What parishes are in more than one sanitary district;
- (4) What parishes in rural sanitary districts have a population of less than 200 according to the census of 1891;
- (5) What rural sanitary districts in the county have less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district;
- (6) What rural parishes are co-extensive with rural sanitary districts.

Having obtained the information, the county council must forthwith take into their consideration every such case (p. 130), with the view of dealing with it in the manner provided in Section 57, Local Government Act, 1888. This latter section enacts that where the county council are satisfied that a *prima facie* case is made out as respects any county district not a borough, or as respects any parish, for—

- (a) the alteration or definition of the boundary thereof;
- (b) the division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish;

- (c) the conversion of any such district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts ;
- (d) the division of an urban district into wards ; and
- (e) the alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards,

the county council may cause inquiry to be made in the locality, giving the prescribed notices* and such others as they may think fit ; and if in the result they are satisfied that the proposal is desirable, they may make an order accordingly (p. 135).

In deciding upon the proposal the county council must give effect to the following rules (p. 130) :

- (1) The whole of each parish must be within the same administrative county ;
- (2) Unless the county council for special reasons otherwise direct—
 - (a) the whole of each rural district must be within the same administrative county ;
 - (b) the whole of each parish must be within the same county district ;
 - (c) every rural district which will have less than five elected councillors must be united to some neighbouring district or districts ; and
- (3) The county council must take into consideration any report affecting the area made by the Boundary Commissioners under the Local Government Act, 1887 (p. 132).

If in carrying out any of the above directions it appears to the county council that an alteration of the boundary of any county or borough is expedient, they must apply to the Local Government Board for an order under Section 54 of the Local Government Act, 1888 (p. 134) ; for although a joint committee of county councils may alter the boundaries of an area extending into two or more counties, neither they nor any county council can themselves alter the boundary of any county or borough (p. 171).

* See the orders as to this in the Appendix, pp. 401—411.

If an alteration in a poor law union seems desirable, the county council may by their order provide, as in Section 58, Local Government Act, 1888, or otherwise, that the union shall continue to be one union for any of the purposes of indoor paupers, but shall be divided into two or more poor law unions for the purposes of outdoor relief. The order requires confirmation by the Local Government Board, and the guardians of the union may petition against it (p. 131).

So where the alteration of the boundary of any parish, or the division thereof, or the union of the whole or part of the parish with another parish, seems expedient for any of the purposes of the new Act, the county council may provide accordingly under Section 57 of the Local Government Act, 1888, their order in this case being also subject to confirmation by the Local Government Board.

Where an alteration of area is made under the new Act, the county council may, if it appears to them desirable, make an order for any of the matters mentioned in Section 59 of the Local Government Act, 1888. These matters are specified fully on pages 137 and 138.

Where a parish is divided by the Act the county council may by order provide for the application to different parts of that parish of the provisions of the Act with respect to the appointment of trustees or beneficiaries of a charity (Section 14), and for the custody of parish documents (Section 17 [7 to 9]); but the order so far as regards the charity requires the approval of the Charity Commissioners (p. 130).

If the order for dividing a parish, altering its boundary, or uniting it with some other parish is proposed to be made after the appointed day, reasonable notice must be given to the parish council if there is one, if not to the parish meeting; and the parish council or meeting may appear at any inquiry held by the county council as to the order, and may petition the Local Government Board against its confirmation (p. 131).

Any order made by a county council under Section 36 of the Act, is to be deemed to be an order under Section 57 of the Local Government Act, 1888 (p. 131), and the council of any district or any board of guardians affected by the order, or one sixth of the county electors registered in that district, or in any ward of that district, or if the order relates only to a parish, one sixth of the county electors registered in that parish, may petition the Local Government Board to disallow the order (p. 136).

Where more than one county is affected by any of these changes, the power of making the order is confided to a joint committee appointed by the councils of the counties affected; and Section 36 (11) of the Act should be referred to as to the cases in which the appointment of joint committees is necessary.

Limit of Time for Alterations.—County councils have until 5th March, 1896, for carrying out the necessary alterations in the areas and boundaries of counties, districts, and parishes under Section 36 of the Act, but the time may be extended by the Local Government Board (p. 132).

Change of Names.—By the provisions relating to overlapping jurisdictions many rural sanitary districts will be divided, and fresh names will have to be given to some of these. Power to settle the name of a rural sanitary district where it is doubtful is given to the county council by Section 24 (7), p. 112, and by Section 55 any district council may, with the sanction of the county council, change their name and the name of their district (p. 160).

Power of County Councils as to Elections and Representatives.—Subject to the rules framed by the Local Government Board, every county council may fix the day of the poll of any elections under the Act, and the hours during which the poll is to be kept open, so, however, that the poll be always open between the hours of 6 p.m. and 8 p.m. (p. 151).

If any difficulty arises as to the election of any individual councillor or guardian, or member of any metropolitan vestry, or of Woolwich local board, or as to the election of an auditor of a metropolitan vestry, and there is no provision for holding another election, the county council may order a new election and give the necessary directions (p. 152).

If any parish council become unable to act by reason of a want of councillors, whether from failure to elect or otherwise, the county council may order a new election, and may by order make such provision as seems expedient for authorising any person to act temporarily in the place of the parish council and of the chairman thereof (p. 150).

If any district council, other than a borough council, become unable to act, whether from failure to elect or otherwise, the county council may order elections to be held, and may appoint persons to form the district council until the newly elected members come into office (p. 164).

The county council may from time to time fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and may settle the mode of their retirement, whether annually by thirds or triennially (pp. 164-5).

If the parish is a new one divided off from an old parish by the Act, the county council may fix the number of guardians, and if it is a rural parish the number of district councillors to be elected. In default of a fixture by the county council one guardian and one district councillor are to be elected for each such parish.

Where the county council on the application of the board of guardians of any union in their county consider that it would be expedient to provide for the simultaneous retirement of the whole of the board of guardians for the union, they may direct that the members of the board of guardians for that union shall retire together on the fifteenth day of April in every third year, and such order will have full effect, and where a union is in more than one county, an order may be made by a joint committee of the councils of those counties.

Where at the passing of the Act the whole of the guardians of any union, in pursuance of an order of the Local Government Board, retire together at the end of every third year, they will continue so to retire, unless the county council, or a joint committee of the county councils, on the application of the board of guardians or of any district council of a district wholly or partially within the union, otherwise direct (p. 107).

A county council may on request made by a resolution of an urban district council, passed by two thirds of the members voting on the resolution, direct that the members of such council shall retire together on the fifteenth day of April in every third year, and such order will have full effect (p. 111).

The county council must fix a scale of expenses for elections under the Act; and if at the beginning of one month before the first election a county council have not framed any such scale for their county, the Local Government Board may frame a scale for the county, and the scale so framed will apply to the first election, and will have effect as if it had been made by the county council, but is not to be alterable until after the first election (p. 153).

Relief from Disqualification.—Where a person who is a parish

councillor, or is a candidate for election as a parish councillor, is concerned in any such bargain or contract, or participates in any such profit, as would disqualify him for being a parish councillor, the disqualification may be removed by the county council if they are of opinion that such removal will be beneficial to the parish (p. 147).

Parish Wards.—A county council may on the application of a parish council, or not less than one tenth of the parochial electors of a parish, and on the conditions indicated in Section 18 (p. 104), order that a parish be divided into wards for the election of parish councillors, and they may subsequently revoke or vary the order on similar application being made to them.

The county council may also from time to time fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and for those purposes certain powers are given to them of adding parishes to each other, and dividing parishes into wards (*see* pages 165 and 166).

Where part of a parish has a defined boundary, and property or rights distinct from the rest of the parish, the county council may order that the consent of a parish meeting held for that part of the parish shall be required for any specified dealing with such property or rights by the parish council (p. 138). The order does not require confirmation by the Local Government Board (p. 140).

Grouping Parishes and dissolving Groups.—The county council may group parishes or dissolve the groups.

Where parishes are grouped, the whole area under each parish council must, unless the county council for special reasons otherwise direct, be within the same administrative county and county district.

The grouping order must make the necessary provisions for the name of the group, for the parish meetings in each of the grouped parishes, and for the election of separate representatives of each parish on the parish council, and may provide for the consent of the parish meeting of a parish to any particular act of the parish council, and for any other adaptations of the Act to the group of parishes, or to the parish meetings in the group.

It should also specify the number of councillors to constitute the parish council for the group and the number to be elected from each parish (p. 67); and it must provide for the application

of the provisions of Sections 14 and 17 of the Act with respect to the appointment of trustees and beneficiaries of a charity, and the custody of documents, so as to preserve the separate rights of each parish.

On the application of the parish meeting of any parish for a grouping order respecting that parish, or if the parish has a less population than two hundred, for a parish council, such application must be forthwith taken into consideration by the county council.

The county council may, on the application of the council for any group of parishes or of the parish meeting for any parish included in a group of parishes, make an order dissolving the group. The order must provide for the election of parish councils of the parishes in the group, and for the adjustment of property, rights, and liabilities as between separate parishes and the group (p. 139).

A grouping order, and an order establishing or dissolving a parish council, or dissolving a group of parishes, and an order relating to the custody of parish documents or requiring the approval of the Charity Commissioners, does not require submission to or confirmation by the Local Government Board (p. 140).

But Section 71 provides that a copy of every order made by a county council in pursuance of the Act shall be sent to the Local Government Board, and, if it alters any local area or name, also to the Board of Agriculture (p. 172).

Conferring Parish and Urban Powers.—On the application of the parish meeting the county council may confer on that meeting any of the powers conferred on a parish council by the Act (pp. 105–6).

A county council may also apply to the Local Government Board to confer urban powers on any rural area under Section 276, Public Health Act, 1875 (p. 114).

Increase and Decrease of Population.—Where the population of a parish not having a separate parish council increases so as to justify the election of such council, the parish meeting may petition the county council, and the county council may order the election of a parish council in that parish. The order must make provision for separating the parish from any group in which it is included, and for the alteration of the parish council

of the group, and for the adjustment of property, rights, and liabilities as between the group and the parish with a separate parish council.

Where the population of a parish, according to the last published census for the time being, is less than two hundred, the parish meeting may petition the county council, and the county council may order the dissolution of the parish council, and from and after the date of the order the Act will apply to that parish as to a parish not having a parish council. The order must make provision for carrying it into effect, and for the disposal and adjustment of the property, rights, and liabilities of the parish council. Where a petition for such an order is rejected, another petition for the same purpose cannot be presented within two years from the presentation of the previous petition (p. 140).

Areas under the Adoptive Acts.—Where on the appointed day any of the adoptive Acts (p. 79) are in force in an area which, after the appointed day, will not be comprised within one rural parish, or if the area is partly comprised in an urban district, the county council on the application of a parish council may, by order, alter the boundaries of any such area if they consider that the alteration can properly be made without undue alteration of the incidence of liability to rates and contributions, or of the right to property belonging to the area, regard being had to any corresponding advantage to persons subject to the liability or entitled to the right (p. 158).

Highways.—By Section 25 of the Act the powers of highway boards in rural districts are transferred to the rural district councils, but the county council are empowered to postpone the operation of the transfer for a term not exceeding three years from the appointed day, or such further period as the Local Government Board may allow (p. 113).

Where in any parish maintaining its own highways such postponement takes place, the highway expenses will not be deemed to be included within the limit of expenditure for parish councils or parish meetings allowed by the Act (p. 188).

The county council must in the order of postponement provide for holding elections of highway boards until their duties are transferred (p. 190).

Where in any district the district council, acting under

Section 82, repair highways which on the appointed day were repairable at the expense of a particular parish or area, and charge the expenses as a separate charge on the parish or area, the question whether any such expenses are properly a separate charge on the parish or area must be determined by the county council (p. 188).

Sanction to Parish Loans.—The consent of the county council is needed before a parish can lawfully incur any expense or liability which will involve a loan (p. 91).

A county council may lend to a parish council any money which the parish council are authorised to borrow, and may, if necessary, without the sanction of the Local Government Board, and irrespectively of any limit of borrowing, raise the money by loan, subject to the like conditions and in the like manner as any other loan for the execution of their duties, and subject to any further conditions which the Local Government Board may by general or special order impose (p. 93).

Creation of New Boroughs or Urban Districts.—Where a new borough is created, or any other new urban district is constituted, or the area of an urban district is extended, then—

- (a) as respects any rural parish or part of a rural parish which will be comprised in the borough or urban district, provision must be made, either by the constitution of a new parish, or by the annexation of the parish or parts thereof to another parish or parishes, or otherwise, for the appointment of overseers, and for placing the parish or part in the same position as other parishes in the borough or district; and
- (b) as respects any parish or part which remains rural, provision must be made for the constitution of a new parish council for the same, or for the annexation of the parish or part to some other parish or parishes, or otherwise for the government of the parish or part; and
- (c) provision must also where necessary be made for the adjustment of property, debts, and liabilities.

This provision must be made (a) where a new borough is created by a scheme under Section 213 of the Municipal Corporations Act, 1882; (b) where any other new urban district is constituted, by an order of the county council under Section 57 of the Local Government Act, 1888; (c) where the area of an

urban district is extended, by an order of the Local Government Board under Section 54, or of the county council under Section 57 as the case may be, of the Local Government Act, 1888.

Where the area of an urban district is diminished, these provisions will apply with the necessary modifications (p. 159).

Complaint of Default of District Council.—The following are the powers and duties of a county council on receiving complaint of default of a district council. Where a parish council resolve that a rural district council ought to have provided the parish with sufficient sewers, or to have maintained existing sewers, or to have provided the parish with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or to have enforced with regard to the parish any provisions of the Public Health Acts which it is their duty to enforce, and have failed so to do, or that they have failed to maintain and repair any highway in a good and substantial manner, the parish council may complain to the county council, and the county council, if satisfied after due inquiry that the district council have so failed, may resolve that the duties and powers of the district council for the purpose of the matter complained of shall be transferred to the county council.

Or, upon any such complaint, the county council may, instead of resolving that the duties and powers of the rural district council be transferred to them, make an order under Section 299 of the Public Health Act, 1875, and may appoint a person to perform the duty mentioned in the order, and upon such appointment Sections 299 to 302 (pp. 381—383) of the Public Health Act, 1875, will apply with the substitution of the county council for the Local Government Board (p. 100).

Where a parish council represent to the district council that any public right of way within the district or an adjoining district in the county or counties in which the district is situate has been unlawfully stopped or obstructed, or that an unlawful encroachment has taken place on any roadside waste within the district, it will be the duty of the district council, unless satisfied that the allegations of such representation are incorrect, to take proper proceedings accordingly ; and if the district council refuse or fail to take proceedings on such representation, the parish council may petition the county council, and if that council so

resolve the powers and duties of the district council under this section will be transferred to the county council (p. 116).

Where a representation as to the want of allotments in a parish has been made to a district council and disregarded by them, the parish council may (p. 86) petition the county council in the manner and with the results indicated in Section 2 of the Allotments Act, 1890 (p. 234).

Where the powers of a district council are by virtue of such a resolution transferred to a county council, the following provisions are to have effect :

- (a) Notice of the resolution of the county council by virtue of which the transfer is made must be forthwith sent to the district council and to the Local Government Board ;
- (b) The expenses incurred by the county council will be a debt from the district council to the county council, and must be defrayed as part of the expenses of the district council in the execution of the Public Health Acts ;
- (c) The county council for the purpose of the powers transferred may, on behalf of the district council, borrow, subject to the like conditions, in the like manner, and on the security of the like fund or rate, as the district council might have borrowed for the purpose of those powers ;
- (d) The county council may charge the said fund or rate with the payment of the principal and interest of the loan ;
- (e) The county council must keep separate accounts of all receipts and expenditure in respect of the said powers ;
- (f) The county council may by order vest in the district council all or any of the powers, duties, property, debts, and liabilities of the county council in relation to any of the said powers, and the property, debts, and liabilities so vested will be deemed to have been acquired or incurred by the district council for the purpose of those powers.

Where a rural district is situate in two or more counties a parish council may complain to the county council of the county in which the parish is situate, and if the subject-matter of the complaint affects any other county the complaint must be referred to a joint committee of the councils of the counties concerned. Any question arising as to the constitution of such joint committee must be determined by the Local Government

Board, and if any members of the joint committee are not appointed the members who are actually appointed must act as the joint committee (pp. 167-8).

Hiring and Acquiring of Land.—Where a parish council desires to obtain land by agreement for the purposes of the Acts but are unable to do so, they may make a representation to the county council under Section 9.

If on any such representation, or on any proceeding under the Allotments Acts, 1887 and 1890, the county council are satisfied that suitable land for the purpose of the parish council or for the purpose of allotments (as the case may be) cannot be acquired on reasonable terms by voluntary agreement, and that the circumstances are such as to justify the county council in proceeding under Section 9 of the Act, they must cause such public inquiry to be made in the parish, and such notice to be given both in the parish and to the owners, lessees, and occupiers of the land proposed to be taken as may be prescribed by the Local Government Board, and all persons interested will be permitted to attend at the inquiry, and to support or oppose the taking of the land.

After the completion of the inquiry, and considering all objections made by any persons interested, the county council may make an order for putting in force, as respects the said land or any part thereof, the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

A copy of any such order must be served in the manner prescribed by the Local Government Board, together with a statement that the order will become final and have the effect of an Act of Parliament, unless within the prescribed period a memorial by some person interested is presented to the Local Government Board praying that the order shall not become law without further inquiry.

The order must be deposited with the Local Government Board (p. 84), and requires their confirmation (p. 85).

If the county council refuse to make the order, an appeal lies to the Local Government Board from their decision (p. 84).

On receiving a representation from a parish council that allotments are required in their parish, and that they are unable to hire suitable land for the purpose on reasonable terms by agreement, the county council may make an order authorising

the parish council to hire compulsorily for allotments, for a period not less than 14 years nor more than 35 years, such land in or near the parish as is specified in the order. The order, as regards confirmation and otherwise, is subject to the like provisions as an order for acquiring land under Section 9 of the Act (pp. 87-8).

The Local Government Board or the county council may embody in the order such of the provisions of the Lands Clauses Acts as appear to be sufficient for carrying the order into effect, and for protecting the parish council and persons interested in the land (p. 89).

Miscellaneous Provisions.—The county council are empowered to make regulations requiring security to be given by treasurers of parish councils appointed under Section 17 (6) of the Act (p. 102).

Provision is made in Section 17 of the Act for certain documents being deposited with the clerk or chairman of the parish council. Every county council must from time to time inquire into the manner in which the public books, writings, papers, and documents under the control of the parish council or parish meeting are kept with a view to the proper preservation thereof, and must make such orders as they think necessary for such preservation, and those orders must be complied with by the parish council or parish meeting (p. 103).

A county council may employ a district council as their agents in the transaction of any administrative business on matters arising in, or affecting the interests of, its own district (p. 168).

The county council may determine the rotation of retirement of guardians and rural district councillors where these retire by thirds on 15th April, 1896, and 15th April, 1897 (p. 182).

The county council may determine, in case of dispute, the proportions in which the costs of joint committees are to be borne, where such committees have been appointed under Section 57 of the Act (p. 162).

Expenses of the County Council.—It is provided in Section 9 (19) that the expenses of a county council in acquiring land for a parish council are to be defrayed in like manner as in the case of a local inquiry under the Act (p. 86).

Where a county council hold a local inquiry under the Act or under the Local Government Act, 1888, on the application of the council of a parish or district, or of any inhabitants of a

parish or district, the expenses incurred by the county council in relation to the inquiry (including the expenses of any committee or person authorised by the county council) are to be paid by the council of that parish or district, or, in the case of a parish which has not a parish council, by the parish meeting ; but otherwise the expenses of the county council incurred in the case of inquiries under the Act are to be paid out of the county fund (p. 173).

The expenses of a county council in exercising the powers which by resolution have been transferred to them in consequence of the default of a district council, constitute a debt from the district council to the county council. In such a case the county council may if necessary borrow money for the purposes of those powers, and the loan must be repaid by the district council (p. 167).

CHAPTER III.—DISTRICT COUNCILS.

Existing urban sanitary authorities will in future be called urban district councils, and their districts will be urban districts. Existing rural sanitary authorities (subject to alterations to be made by county councils) will be called rural district councils and their districts will be rural districts (p. 108).

URBAN DISTRICT COUNCILS.

Constitution and Election.—Subject to the disqualifications mentioned in Section 46 (p. 146)—

Any man or woman, married or single, will be qualified to be elected a councillor in an urban district other than a borough, who is a parochial elector of some parish within the district, or, has during the whole of the twelve months preceding the election resided in the district.

Subject to the disqualifications specified in pages 144 and 145, the persons entitled to vote at the election of a councillor in an urban district will be the parochial electors of every parish or ward of a parish within the district, whether they are ratepayers or not.

No elector may give more than one vote to any one candidate, though he may give one vote to any number of candidates not exceeding the number to be elected (p. 110).

There will be no *ex officio* or nominated members of an urban district council, but the chairman may be elected by the council (p. 383) from outside the councillors (p. 164).

The election of urban district councillors will be conducted according to rules issued under the Act by the Local Government Board (p. 110).

The term of office of an urban district councillor will be three years. One third of the council will retire annually on the 15th April, unless the county council, on request by resolution passed by two thirds of the members of the urban district council voting on the resolution, direct that the whole of the council shall retire on the 15th April in every third year (p. 111).

Of the first urban district councillors elected under the Act, the third who are respectively to retire on the 15th April, 1896, and 15th April, 1897, will be determined according to their place on the poll at the election, those that were lowest on the poll retiring first. If there was no poll, or if a question arises in consequence of an equality of votes between two or more councillors, the matter must be determined by ballot conducted under the direction of the council.

In the case of an urban district divided into wards, the provisions as to retirement apply separately to each ward (p. 182).

Adoptive Acts in Force in Urban Districts.—Where there is in any urban district, or part of an urban district, any authority constituted under any of the adoptive Acts mentioned on page 79, the council of that district may resolve that the powers, duties, property, debts, and liabilities of that authority shall be transferred to the council as from the date specified in the resolution, and upon that date the same will be transferred, the authority will cease to exist, and the council will be the successors of that authority.

After the appointed day an adoptive Act cannot be adopted for any part of an urban district without the approval of the council of that district (p. 166).

If the area on the appointed day under any authority under any of the adoptive Acts is partly comprised within an urban district, the powers and duties of the authority are to be transferred to the parish council of the rural parish wholly or partly comprised in that area and to the district council of the urban district; and until other provision is made under the Act, such powers, &c., must be exercised by a joint committee appointed by those councils. If the rural parish con-

cerned has not a parish council, the parish meeting must act (p. 158).

Conferring Parish Powers on Urban Councils.—The Local Government Board may on the application of any urban district council (including any municipal or county borough council), or of any representative body within an urban district or borough, make an order conferring on that urban district or borough council or some other representative body within the district or borough, all or any of the following matters, namely, the appointment of overseers and assistant overseers, the revocation of the appointment of assistant overseers, any powers, duties, or liabilities of overseers, and any powers, duties, or liabilities of a parish council, either for the whole or for specified parts of the area of the urban district or borough (p. 127).

Where the order confers on the council of an urban district, or some other representative body within the district, either the appointment of overseers and assistant overseers, or the powers, duties, and liabilities of overseers, that order or any subsequent order of the Local Government Board may confer on such council or body the powers of the vestry under the third and fourth sections of the Poor Rate Assessment and Collection Act, 1869, as to compounding with owners for the payment of rates by them instead of by occupiers (p. 128).

Where the powers of the Act with regard to the appointment of trustees of any charity are conferred upon any municipal, county borough, or urban district council, if it appears to the Local Government Board that by reason of the circumstances connected with any parish under the jurisdiction of the borough or urban district council, or with the parochial charities of such parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the borough or district council, be properly represented on that body, they may by their order provide that such of those trustees as are appointed by the council, or some of them, shall be appointed on the nomination of the councillors elected for the ward or wards comprising such parish or any part of such parish (p. 127).

Expenses ; Rules applying specially to Urban District Councils.—The expenses incurred by the council of an urban district in executing the additional powers conferred on the council by the new Act will in general be defrayed in a borough out of the borough fund or rate, and in any other case out of the district

fund and general district rate or other fund applicable towards defraying the expenses of the execution of the Public Health Act, 1875 (pp. 122-3).

The accounts of an urban district council are to be made up yearly to the 31st March in the form prescribed by the Local Government Board. They will be audited by the district auditor (p. 162).

RURAL DISTRICT COUNCILS.

Constitution and Election.—For every rural sanitary district there will be a rural district council, whose district will be called a rural district (p. 108).

Where a rural sanitary district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county will, unless otherwise provided by or in pursuance of this or any other Act, be as from the appointed day a rural district. But where the number of councillors of any such district will be less than five, the provisions, so far as unrepealed, of Section 9 of the Public Health Act, 1875 (p. 362), with respect to the nomination of persons to make up the members of a rural authority to five, will apply, unless the Local Government Board by order direct that the affairs of the district shall be temporarily administered by the district council of an adjoining district in another county with which it was united before the appointed day; and, if they so direct, the councillors of the district will be entitled, so far as regards those affairs, to sit and act as members of that district council. A separate account must, however, be kept of receipts and expenses in respect of the district, and the same will be credited or charged separately to the district.

Every district council for a rural district will be a body corporate by the name of the district council, with the addition of the name of the district, or if there is any doubt as to the latter name, of such name as the county council direct. Power to change the name is given in Section 55 (p. 160). It will have perpetual succession and a common seal, and may hold land for the purposes of its powers and duties without licence in mortmain (p. 112).

The district council of every rural district will consist of a chairman and councillors, and the councillors must be elected by the parishes or other areas for the election of guardians in the district.

The number of councillors for each parish or other area in a rural district will be the same as the number of guardians for that parish or area (p. 111).

Subject to the disqualifications mentioned in Section 46 (page 146), any man or woman, married or single, is qualified to be a councillor for a rural district who is either a parochial elector of some parish within the district, or who has during the whole of the twelve months preceding the election resided in the district (pp. 111-12).

Subject to the disqualifications specified in pages 144-5, the persons entitled to vote at the election of a councillor in a rural district will be the parochial electors of every parish in the district; and if the parish is divided into wards, the electors for each ward will be such of the parochial electors as are registered in respect of qualifications within the ward (pp. 107 and 111).

No elector may give more than one vote to any one candidate, but he may give one vote to any number of candidates not exceeding the number to be elected (pp. 107 and 111).

There will be no *ex officio* or nominated members of a rural district council, but the chairman may be elected by the council from outside the councillors (pp. 107 and 111).

The election of rural district councillors will be conducted according to rules issued under the Act by the Local Government Board (pp. 107 and 111).

The term of office of a rural district councillor will be three years. One third of the council will retire annually on the 15th April, unless the county council on the application of the rural council direct that the whole of the council shall retire on the 15th April in every third year; or unless prior to the 5th March, 1894, the rural sanitary authority which preceded the rural council in any particular district retired together triennially (pp. 107 and 111).

The guardians and rural district councillors to retire respectively on the 15th April, 1896, and on the 15th April, 1897, will be the guardians and rural district councillors for such parishes, wards, or other areas as may be determined by the county council for the purpose of the rotation.

Where guardians or rural district councillors retire together at the end of the triennial period, the guardians and district

councillors first elected under this Act retire on the 15th day of April, 1898 (p. 182).

Place of Meeting.—Any rural district council is entitled to use for the purpose of their meetings and proceedings the board-room and offices of any board of guardians for the union comprising their district at all reasonable hours, and if any question arises as to what hours are reasonable it may be determined by the Local Government Board (p. 164).

No meetings may be held at public-houses except in cases where no other suitable room is available for meeting either free of charge or at a reasonable cost (p. 166).

Transfer of Sanitary and Highway Powers.—As from the appointed day, there will be transferred to the district council of every rural district all the powers, duties, and liabilities of the rural sanitary authority in the district, and of any highway authority in the district, and highway boards will cease to exist, and rural district councils will be the successors of the rural sanitary authority and highway authority, and will also have as respects highways all the powers, duties, and liabilities of an urban sanitary authority under Sections 144 to 148 of the Public Health Act, 1875 (pp. 363–4), and those sections will apply in the case of a rural district and of the council thereof in like manner as in the case of an urban district and an urban authority.

The council of any county may, however, by order postpone within their county or any part thereof the operation of this section, so far as it relates to highways, for a term not exceeding three years from the appointed day, or such further period as the Local Government Board may allow.

Where a highway repairable *ratione tenuræ* appears on the report of a competent surveyor not to be in proper repair, and the person liable to repair the same fails when requested so to do by the district council to place it in proper repair, the district council may place the highway in proper repair, and recover from the person liable to repair the highway the necessary expenses of so doing.

Where a highway authority receives any contribution from the county council towards the cost of any highway under Section 11 (10) of the Local Government Act, 1888, such contribution may be made, subject to any such conditions for the proper maintenance and repair of such highways, as may be agreed on between the county council and the highway authority.

Where the council of a rural district become the highway authority for that district, any excluded part of a parish under Section 216 of the Public Health Act, 1875, which is situate in that district will cease to be part of any urban district for the purpose of highways, but until the council become the highway authority such excluded part of a parish will continue subject to the said section (pp. 113-14).

Conferring Urban Powers.—Rural district councils will also have such powers, duties, and liabilities of urban sanitary authorities under the Public Health Acts or any other Act, and such provisions of any of those Acts relating to urban districts will apply to rural districts, as the Local Government Board by general order direct.

The power to make such general orders will be in addition to and not in substitution for the powers conferred on the Board by Section 276 of the Public Health Act, 1875, or by any enactment applying that section; and every order made by the Local Government Board under this section must be forthwith laid before Parliament.

The powers conferred on the Local Government Board by the said Section 276, or by any enactment applying that section, may be exercised on the application of a county council, or with respect to any parish or part of a parish on the application of the parish council of that parish (p. 114).

Where before the appointed day the highway expenses were charged on a particular parish or other area, and not on a district, the district council may determine that the highways in that parish or area shall be placed in proper repair before the expenses of repairing the same become a charge upon the district, and, failing such highways being placed in proper repair to the satisfaction of the district council, they may themselves do the repairs. The expense incurred by them of placing those highways in proper repair will be a separate charge on the parish or area, and any question which arises as to whether any such expenses are properly a separate charge on the parish or area must be determined by the county council.

Where in pursuance of an order of a county council a parish continues to maintain its own highways after the appointed day, the highway expenses will not be deemed to be expenses of the parish council or of the parish meeting within the meaning of Section 11 of the Act (p. 188).

Although by the new Act various powers of dealing with nuisances and of providing drainage and water-supply are given to parish councils, yet it is expressly provided that the gift of these powers is not to derogate from the obligation of a district council with respect to the supply of water or the execution of sanitary works (p. 82).

The duties in regard to these matters imposed upon rural sanitary authorities under the Public Health Acts devolve without diminution upon their successors the rural district councils.

Notice to Parish Council of Intended Public Works.—Where a rural district council determine to adopt plans for the sewerage or water-supply of any contributory place within the district, they must give notice thereof to the parish council of any parish for which the works are to be provided before any contract is entered into by them for the execution of the works (p. 100).

Delegation of Powers.—A rural district council may delegate to a parish council any power which may be delegated to a parochial committee under the Public Health Acts, and thereupon those Acts will apply as if the parish council were a parochial committee, and where the district council appoint a parochial committee consisting partly of members of the district council and partly of other persons, those other persons must, where there is a parish council, be or be selected from the members of the parish council (p. 99).

Where a parish council act as a parochial committee by delegation from the district council, they are entitled to have the services of the clerk of the district council unless that council otherwise direct (p. 102).

Default of District Council.—Where a district council make default in providing their district with sufficient sewers or water-supply, or enforcing any of the provisions of the Public Health Acts which it is their duty to enforce, the parish council of any parish affected may complain to the county council under Section 16 of the Act (p. 100).

Similarly, under Section 26, complaint may be made to the county council where the district council have failed to take proceedings respecting the stopping, obstructing, or encroaching on a public right of way (p. 116). And where they have disregarded a representation as to the want of allotments, the aid of the county council may be invoked (pp. 86 and 234).

Expenses ; Rules applying specially to Rural Councils.—The expenses incurred by the council of a rural district are to be defrayed as directed by the Public Health Act, 1875, with respect to expenses incurred in the execution of that Act by a rural sanitary authority ;

Provided as follows (p. 123) :

- (a) Highway expenses must be defrayed as general expenses ;
- (b) When the Local Government Board determine any expenses under the Act to be special and a separate charge on any contributory place, they may in certain cases direct such special expenses to be raised as general expenses, and not by a separate rate for special expenses as mentioned in Section 230 of the Public Health Act, 1875 (p. 123) ;
- (c) A district council will have the same power of charging highway expenses under exceptional circumstances on a contributory place as a highway board has in respect of any area under Section 7 of the Highways and Locomotives (Amendment) Act, 1878 (p. 123) ;
- (d) Where highway expenses would, if the new Act had not passed, have been in whole or in part defrayed in any parish or other area out of any property or funds other than rates, the district council must make such provision as will give to that parish or area the benefit of such property or funds by way of reduction of the rates on the parish or area (p. 123).

PROVISIONS APPLYING TO BOTH URBAN AND RURAL DISTRICT COUNCILS.

Elections.—The existing urban and rural sanitary authorities must take the necessary measures for the conduct of the first elections of district councillors under the Act, including any appointment of returning officers required by rules under the Act.

Where a parish is divided by the Act into two or more new parishes, then, subject to any order made by the county council, there is to be one district councillor for each new parish in a rural district.

Of the urban and rural district councillors first elected under this Act, in districts where the councils retire by thirds annually, one third as nearly as may be will continue in office until the 15th day of April, 1896, and then retire ; one third as nearly as

may be will continue in office until the 15th day of April, 1897, and then retire; and the remainder will continue in office until the 15th day of April, 1898 (p. 181).

Where any difficulty arises as to the first meeting of a district council or the first election of members, or if the council is not properly constituted, the county council may by order do anything which is necessary to remedy the defect or difficulty (p. 184).

If any difficulty arises as respects the election of any individual councillor, and there is no provision for holding another election, the county council may order a new election to be held, and give the necessary directions concerning it (p. 152).

If any district council, other than a borough council, become unable to act, whether from failure to elect or otherwise, the county council of the county in which the district is situate may order elections to be held and may appoint persons to form the district council until the newly elected members come into office (p. 164).

The provisions of the Municipal Corporations Act, 1882, and the enactments amending the same with respect to the expenses of elections of councillors of a borough, and to the acceptance of office, resignation, re-eligibility of holders of office, and the filling of casual vacancies, will, with the necessary modifications, apply to the election of district councillors, except that there will be no election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs. The provisions as to resignation will not apply to rural district councillors (p. 152).

Coming into Office; First Meeting; Annual Meeting.—The councillors elected under the new Act come into office on the second Thursday after their election, or on such other day, not more than seven days earlier or later, as may be fixed under the rules for elections made by the Local Government Board (p. 189).

Upon the day on which the first urban or rural district councillors come into office the persons who are then members of urban and rural sanitary authorities will cease to hold office, but until that day the persons who are at the passing of the Act members of urban sanitary authorities (for urban districts not being boroughs) and of highway boards will continue in office, notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day, and, except for the purpose of filling casual vacancies, no further elections will be held (p. 182).

The first meeting of each district council elected under the Act must be convened by the returning officer.

The annual meetings of district councils must be held as soon as convenient after the 15th April in each year (pp. 163-4 and 384).

Place of Meeting.—No meeting of a district council must be held in premises licensed for the sale of intoxicating liquor, except in cases where no other suitable room is available for such meeting either free of charge or at a reasonable cost (p. 166). Rural district councils are entitled to meet in the board-room of the board of guardians (p. 164).

Rules for Meetings.—The meetings and proceedings of all district councils will be conducted according to the rules which have hitherto been in force at the meetings of local boards, except that the chairman of the district council may be elected from outside the councillors (pp. 163-4). These rules will be found on pages 383-4.

Unless a woman, or personally disqualified by any Act, the chairman for the time being of a district council will be a justice of the peace for the county, subject to his taking the necessary oaths (p. 109).

Any urban district council other than a borough council, and any rural district council may appoint a vice-chairman to hold office during the term of office of the chairman, and the vice-chairman will, in the absence or during the inability of the chairman, have his powers and authority (p. 164).

Powers, Duties, &c., of all District Councils.—It will be the duty of every district council to protect all public rights of way, and to prevent as far as possible the stopping or obstruction of any such right of way, whether within their district or in an adjoining district in the county or counties in which the district is situate, where the stoppage or obstruction thereof would in their opinion be prejudicial to the interests of their district, and to prevent any unlawful encroachment on any roadside waste within their district (p. 116). But by Section 13 a district council may consent to the stopping in whole or in part, or the diverting of a public right of way within a rural parish (p. 94).

A district council may with the consent of the county council for the county within which any common land is situate aid persons in maintaining rights of common where, in the opinion of

the council, the extinction of such rights would be prejudicial to the inhabitants of the district; and may with the like consent exercise in relation to any common within their district all such powers as may, under Section 8 of the Commons Act, 1876 (p. 117), be exercised by an urban sanitary authority in relation to any common referred to in that section; and notice of any application to the Board of Agriculture in relation to any common within their district must be served upon the district council (p. 116).

A district council may for these purposes institute or defend any legal proceedings, and generally take such steps as they deem expedient (p. 116).

The council of every county borough will have the additional powers conferred on a district council by Section 26 (p. 117).

As from the appointed day the district council of the district will have the powers, duties, and liabilities of justices out of session in relation to the following matters when arising within their district:

- (a) the licensing of gangmasters;
- (b) the grant of pawnbrokers' certificates;
- (c) the licensing of dealers in game;
- (d) the grant of licences for passage brokers and emigrant runners;
- (e) the abolition of fairs and alteration of days for holding fairs;
- (f) the execution as the local authority of the Acts relating to petroleum and infant life protection;

and also the powers, duties, and liabilities of quarter sessions in relation to the licensing of knackers' yards.

All fees payable in respect of these powers, duties, and liabilities will be payable to the district council (pp. 118-19).

Creation of New Urban Districts and Changes of Name.—New urban districts may be created from time to time, and provisions are contained in Section 54 of the Act (p. 159) as to the mode of dealing with the rural area out of which the new urban district is taken.

With the sanction of the county council any district council may change their name and the name of their district (p. 160).

Conferring Parish Powers.—The Local Government Board may, on the application of the council of any municipal borough,

including a county borough, or of any other urban district, make an order conferring on that council or some other representative body within the borough or district all or any of the following matters, namely, the appointment of overseers and assistant overseers, the revocation of appointment of assistant overseers, any powers, duties, or liabilities of overseers, and any powers, duties, or liabilities of a parish council, and applying with the necessary modifications the provisions of this Act with reference thereto (p. 127).

Where it appears to the Local Government Board that, by reason of the circumstances connected with any parish in a municipal borough (including a county borough) or other urban district divided into wards, or with the parochial charities of that parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the council of the borough or district, be properly represented on that body, they may, by their order, provide that such of those trustees as are appointed by the council, or some of them, shall be appointed on the nomination of the councillors elected for the ward or wards comprising such parish or any part of the parish.

Any such order may provide for its operation extending either to the whole or to specified parts of the area of the borough or urban district, and may make provisions for carrying the order into effect.

The order must not alter the incidence of any rate. It must make the necessary provisions for the preservation of the existing interests of paid officers.

Such an order may also be made on the application of any representative body within a borough or district (p. 127).

Appointment of Committees and Joint Committees.—A district council (but not a borough council) may appoint committees consisting wholly or partly of members of the council, for exercising any powers which can be properly exercised by committees. Such a committee cannot hold office beyond the next annual meeting of the council, and its acts must be submitted to the council for approval.

If the committee is appointed for any of the purposes of the Public Health Acts or Highway Acts, it may be authorised by the council to institute any proceeding or do any act which the council might have done for that purpose, other than the raising of a loan or the making of a rate or contract (pp. 160–61).

The proceedings of committees of district councils are regulated by the rules on pages 197 and 198.

A district council may concur with any other district or parish council or councils in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested, and in conferring, with or without conditions or restrictions, on any such committee any powers which the appointing council might exercise if the purpose related exclusively to their own parish or district (p. 161).

A council cannot delegate to any such committee any power to borrow money or make any rate.

A joint committee thus appointed cannot hold office beyond the expiration of fourteen days after the next annual meeting of any of the councils who appointed it (p. 161).

The costs of a joint committee must be defrayed by the councils by whom it is appointed in such proportions as they may agree upon, or as may be determined in case of difference by the county council (p. 162).

A district council may be employed by a county council to act as the agents of the latter in transacting any administrative business or matters arising in or affecting the interests of the district (p. 168).

Any district council may make agreements with other authorities interested for the adjustment where adjustment is required, of any property, income, debts, liabilities, and expenses; and, in default of agreement, they may refer the matter to arbitration (p. 169).

The effect of transfers of property, debts, and liabilities to district councils is indicated on p. 169.

Expenses.—If a district council, or any of the inhabitants of the district, apply to a county council to hold a local inquiry under the Local Government Acts (either of 1888 or 1894), and such an inquiry is held, the expenses of holding it must be paid by the district council (p. 173).

Where existing officers are affected by this Act, and it is desired to pay compensation to them, provision for this is made in Section 81 (p. 186).

Where the powers of a district council are by virtue of a resolution under the Act transferred to a county council (*e. g.* where the district council is in default), the expenses incurred by the county council will be a debt from the district council to

them, and must be defrayed as part of the expenses of the district council in the execution of the Public Health Act (p. 167).

Expenses of any adjustment paid by any district council may be general expenses; but they will be special expenses if so directed by the council with the approval of the Local Government Board (p. 170).

All fees payable in respect of the powers, duties, and liabilities transferred to district councils by Section 27 of the Act (relating to grants of licences, the execution of the Petroleum and Infant Life Protection Acts, &c.) will be payable to the district council (p. 118).

CHAPTER IV.—PARISH MEETINGS.

IN every rural parish, whether there is a parish council or not, and whether or not the parish is grouped with one or more neighbouring parishes, every such parish will have a parish meeting (p. 65).

Where a parish council exists the business of the parish under the new Act will mainly be carried out by that council. In other cases it will be done by the parish meeting or by committees constituted by that meeting.

The persons entitled to attend a parish meeting are the parochial electors for the parish, and no others.

The parochial electors are the persons whose names are entered in that portion of the Local Government register of electors, or of the Parliamentary register of electors, which relates to the parish (p. 66).

A woman is not disqualified by marriage for being on any Local Government register of electors, or for being an elector of any local authority; but a husband and wife cannot both derive their qualification from the same property (p. 141).

The overseers of each rural parish must convene the first parish meeting under the Act, and for this purpose the overseers of a parish are deemed to be the overseers for every part of the parish (p. 181).

If any difficulty arises with respect to the holding of the first parish meeting of a rural parish, the county council may do anything which they may think expedient or necessary for the proper holding of any such first meeting (p. 184).

Annual Assembly.—There must be an annual assembly of the

parish meeting on the 25th March in each year, or within seven days before or after that day (p. 193).

Convening Meetings; Time and Place of Meeting.—The parish meeting must assemble at least once in every year (p. 66), and as much oftener as may be fixed by the parish council (p. 146). Moreover the chairman of the parish council, or any two parish councillors, or the chairman of the parish meeting, or any six parochial electors may at any time convene a parish meeting (p. 146).

The mode of convening a parish meeting is by giving public notice thereof. The notice must specify the time and place of the intended meeting and the business to be transacted; and it must be signed by the chairman of the parish council or other conveners of the meeting.

If the business relates to the establishment or dissolution of a parish council or the grouping of a parish, or the adoption of any of the adoptive Acts (*see* p. 79), not less than fourteen days' notice of the meeting must be given. In any other case not less than seven clear days' notice is sufficient (p. 193).

The notice must be given in the same manner as notices of vestry meetings are given at the present time (p. 155), and by posting the notice in some conspicuous place or places within the parish, and in such other manner (if any) as appears to the parish council or to the persons convening the meeting desirable for giving publicity to the notice (p. 154).

The place and hour of the meeting will be fixed by the parish council (p. 146) or the persons convening the meeting (p. 193), as the case may require, but the proceedings at a parish meeting must not in any case begin earlier than 6 p.m. (p. 67).

No parish meeting, however, must be held in premises licensed for the sale of intoxicating liquor, except in cases where no other suitable room is available for such meeting, either free of charge or at a reasonable cost (p. 166).

If in any rural parish there is no suitable public room vested in the parish council which can be used free of charge, the parochial electors are entitled to use free of charge (but subject to payment of expenses and damages) at all reasonable times, and after reasonable notice, any suitable room in any public elementary school, not being part of a private dwelling-house (p. 70).

Chairman of Parish Meeting.—If the chairman of the parish council is present at a parish meeting and is not a candidate for

election at the meeting, and is able and willing to take the chair, he is entitled to be chairman of the meeting (p. 146).

If he is absent or is unable or unwilling to take the chair at any assembly of the parish meeting, the meeting may appoint a person to take the chair, and that person will have, for the purpose of that meeting, the powers and authority of the chairman (pp. 67 and 195).

It will be the duty of the chairman of the parish meeting at which the first parish councillors are nominated to convene the first meeting of the parish council. In his default the duty devolves upon the clerk of the guardians (p. 181).

The first chairman of a parish meeting elected under the Act is entitled to remain in office until 15th April, 1896 (p. 181). But he may resign before that date (p. 150). In subsequent years the chairman will be elected at the annual assembly of the parish meeting, and he will retain his office (unless he resigns or ceases to be qualified, or becomes disqualified) until his successor is appointed (p. 68).

Powers and Duties.—A parish meeting may discuss parish affairs and pass resolutions thereon (p. 194).

The action, assent, or approval of the parish meeting is necessary in the following cases:

- (1) The election of parish councillors (pp. 68 and 151).
- (2) Where there is doubt as to the name of a parish (*e.g.* where a parish is divided by the Act) the name is to be settled by the county council after consultation with the parish meeting (p. 68).
- (3) The adoption of any of the adoptive Acts; *i.e.*
 - The Lighting and Watching Act, 1833.
 - The Baths and Washhouses Acts, 1846—1882.
 - The Burial Acts, 1852—1885.
 - The Public Improvements Act, 1860.
 - The Public Libraries Act, 1892.

Where under any of the above Acts the consent or approval of, or other act on the part of the vestry of a rural parish is required in relation to any expense or rate, the parish meeting will be substituted for the vestry, and for this purpose the expression "vestry" is to include any meeting of ratepayers or voters (p. 79).

Where a parish council desire to incur expenses or liabilities which will involve a rate exceeding 3d. in the £ for any local

financial year, the consent of a parish meeting must first be obtained (pp. 90-91).

A parish meeting may prevent the parish council from consenting to the stopping in whole or in part, or the diversion, of a public right of way within a rural parish, and they may also prevent effect being given to a resolution of that council declaring that a certain highway in a rural parish is unnecessary for public use and not repairable at the public expense (p. 94).

Where a parish council desire to support or oppose a scheme relating to a charity other than an ecclesiastical charity which affects a rural parish, they must, among other preliminaries, get the consent of the parish meeting (p. 96).

In a rural parish the power of making application for the formation of a school board as specified in Section 12 of the Education Act, 1870 ; or for the dissolution of a school board as specified in Section 41 of the Education Act, 1876, will in future be exercised by the parish meeting of the parish, the majority in the latter case being the same as was required when the application was made in the old way (p. 156).

Any power which may be exercised and any consent which may be given by the owners and ratepayers of a parish or by the majority of them under any of the Acts relating to the relief of the poor or under the School Sites Acts or the Literary and Scientific Institutions Act, 1854, so far as respects the dealing with parish property or the spending of money or raising of a rate may, in a rural parish, be exercised or given by the parish meeting (p. 155).

The consent of the parish meeting is necessary to enable a parish council to sell or exchange any land or buildings vested in the council (p. 81).

The accounts of all parochial charities not being ecclesiastical charities must annually be laid before the parish meeting (p. 96).

The consent of a parish meeting of a parish in a group may, by order of the county council, be made necessary to any particular act or class of acts to be done by the parish council of the group (p. 139). Such an order does not require confirmation by the Local Government Board (p. 140).

A parish meeting may apply to the county council for a grouping order respecting that parish, and if the parish has a less population than 200, for a parish council, and any such application must be forthwith taken into consideration by the county council (p. 139).

The parish meeting may petition the county council for the establishment of a parish council in localities where the population has increased so as to require it; or for the dissolution of the parish council in a parish the population of which has fallen below 200 (p. 140).

But under Section 1 (p. 65), if the parish meeting of a parish having a population of 100 or upwards resolve that a parish council shall be established in the parish, the county council must provide accordingly.

The parish meeting for any parish included in a group of parishes may also apply to the county council for an order dissolving the group (p. 139).

All enactments in any Act, whether general or local and personal, relating to any powers, duties, or liabilities transferred by the new Act to a parish council or parish meeting from justices, or the vestry, or overseers, or churchwardens and overseers, are, subject to the provisions of this Act and so far as circumstances admit, to be construed as if any reference therein to justices, or to the vestry, or to the overseers, or to the churchwardens and overseers, referred to the parish council or parish meeting as the case requires, and with such modifications as may be necessary for carrying the new Act into effect (p. 156).

Conferring Parish Powers.—On the application of the parish meeting of a parish not having a separate parish council the county council may confer on that meeting any of the powers conferred on the parish council by the Act (pp. 105-6).

Procedure at Parish Meetings.—Where there is a parish council that council may make standing orders for regulating the proceedings and business at parish meetings (p. 197).

Every question to be decided by a parish meeting must in the first instance be decided by the majority of those present and voting on the question. The chairman must announce his decision as to the result, and that decision will be final unless a poll is demanded (p. 194).

Every parochial elector may at any parish meeting, or at any poll consequent thereon, give one vote and no more on any question; or, in the case of an election, one vote each to as many persons as there are persons to be elected (p. 66).

A poll consequent on any parish meeting must be taken by ballot (p. 67). Such a poll may be demanded at any time before the conclusion of a parish meeting (p. 194) by any one.

parochial elector in the case of a resolution respecting any of the following matters, viz.

- (a) Any application, representation, or complaint to a county council or district council ;
- (b) The appointment of a chairman for the year or of a committee, or the delegation of any powers or duties to a committee, or the approval of the acts of a committee ;
- (c) The appointment of an overseer, the appointment or revocation of the appointment or dismissal of an assistant overseer or a parish officer ;
- (d) The appointment of trustees or beneficiaries of a charity ;
- (e) The adoption of any of the adoptive acts ;
- (f) The formation or dissolution of a school board ;
- (g) The consent or refusal of consent to any act, matter, or thing which cannot by law be done without that consent ;
- (h) The incurring of any expense or liability ;
- (i) The place and time for the assembly of the parish meeting ;
- (k) Any other matter prescribed by the Local Government Board.

Except in the matters mentioned in paragraphs (a) to (k) above a poll must not be taken unless either the chairman of the meeting assents, or the poll is demanded by parochial electors present at the meeting, not being less than five in number, or one third of those present, whichever number is least (p. 194).

A poll consequent on a parish meeting must be taken by ballot, and every such poll must be taken as if it were a poll for the election of parish councillors, that is to say, according to the rules framed by the Local Government Board in accordance with Section 48 of the Act (pages 67 and 153).

Parish Meetings for Wards or Parts of Parishes.—If it appears to a parish council or to one tenth of the parochial electors of a parish that the area or population of the parish is so large, or that different parts of the population are so situated as to make a single parish meeting for the election of councillors impracticable or inconvenient, or that it is desirable for any reason that certain parts of the parish should be separately represented on the council, the parish council or one tenth of the parochial electors may apply to the county council, and that council, on being satisfied as to any one of the above matters,

may by order divide the parish into wards for the purpose of electing parish councillors (p. 104).

In a parish divided into parish wards there must be a separate election of parish councillors for each ward (p. 104).

Where the county council are satisfied that any part of a parish has a defined boundary, and has any property or rights distinct from the rest of the parish, the county council may order that the consent of a parish meeting held for that part of the parish shall be required for any act or class of acts of the parish council affecting the said property or rights as is specified in the order (p. 138).

Where on the "appointed day" any of the adoptive Acts is in force in a part only of a rural parish, the existing authority under the Act, or the parish meeting for that part, may transfer the powers, duties, and liabilities of the authority to the parish council, subject to such conditions with respect to the execution thereof by means of a committee as to the authority or parish meeting may seem fit. Any such conditions may be altered by any such parish meeting (p. 158).

Where a parish council have any powers and duties which are to be exercised in a part only of the parish, or in relation to a recreation ground, building, or property held for the benefit of a part of a parish, and the part has a defined boundary, the parish meeting held for that part may require the parish council to appoint annually, to exercise such powers and duties, a committee consisting partly of members of the council and partly of other persons representing the said part of the parish (p. 161).

Where a parish meeting is required or authorised to be held for a ward or other part of a parish, then—

(a) The persons entitled to attend and vote at the meeting, or at any poll consequent thereon, will be the parochial electors registered in respect of qualifications in that ward or part; and (b) the provisions with respect to parish meetings for the whole of a parish, including the provisions with respect to the convening of a parish meeting by parochial electors, will apply as if the ward or part were the whole parish (pp. 153–4).

Expenses of Parish Meetings.—The reasonable expenses of and incidental to the holding of a parish meeting, or the taking of a poll consequent thereon, are to be defrayed out of the poor rate; and, where there is a parish council, that council must pay the expenses of the parish meeting of the parish (pp. 67 and 91).

Where parish meetings are held in schoolrooms, the expenses (if any) incurred in consequence by the persons having control of the room, must be defrayed as part of the expenses of the parish meeting (p. 71).

The expenses of any election under this Act must not exceed the scale fixed by the county council; and if a scale has not been fixed by the council of a county before the 1st October, 1894, the Local Government Board may fix a scale for that county to apply to the first election (p. 153).

Provisions specially applicable to Parishes which have no separate Parish Councils.—1. The parish meeting must assemble not less than *twice* in each year (p. 104); the times and places are to be fixed by the chairman of the parish meeting (p. 146), the hour not to be earlier than 6 p.m. (p. 67).

2. It must choose a chairman for the year at the annual assembly, which must be held on the 25th March, or within seven days before or after.

A casual vacancy in the office of chairman must be filled up by the meeting (p. 150).

3. It may appoint committees of parochial electors for the parish for any purpose; but all the acts of a committee must be submitted to the parish meeting for approval (p. 104).

The following powers, duties, and liabilities which devolve upon the parish council of a parish when there is one, will devolve upon the parish meeting when a parish has no council:

- (1) The powers, duties, and liabilities of the vestry, except such as relate to the affairs of the church, or to ecclesiastical charities (p. 105).
- (2) The appointment of overseers and the duty of notifying the appointment to the guardians within three weeks after the 15th April in each year (pp. 105 and 154).
- (3) The appointment and dismissal of assistant overseers.
- (4) Such powers of appointing trustees of a charity as are by Section 14 of the Act vested in parish councils in place of overseers and churchwardens.
- (5) Powers to consent to the stopping or diversion of a public right of way, or the declaring of a highway to be unnecessary, and not repairable at the public expense.
- (6) Power to complain to a county council of a default by a district council (p. 105).
- (7) Power to regulate its own proceedings and business (p. 197).

On the application of the parish meeting, the county council may confer on that meeting any of the powers conferred on a parish council by the Act, but which are not thereby already conferred on the parish meeting (pp. 105-6).

In a parish where there is no parish council the chairman of the parish meeting and the overseers of the parish are together constituted a body corporate by the name of the chairman and overseers of the parish. They will have perpetual succession, and may hold land for the purposes of the parish without licence in mortmain. They are to act as directed by the parish meeting (p. 105).

The legal interest in all property which under the Act would, on the appointed day, vest in the parish council if there were one, will vest in the said body corporate of the chairman and overseers of the parish (p. 105).

Any act of the parish meeting may be signified by an instrument executed at the meeting under the hands, or if an instrument under seal is required, under the hands and seals of the chairman presiding at the meeting and two other parochial electors present at the meeting (p. 106).

Any act of the body corporate of the chairman and overseers of the parish must be executed under the hands, or if an instrument under seal is required, under the hands and seals of the said chairman and overseers (p. 105).

If the area on the appointed day under any authority under any of the adoptive Acts will not after that day be comprised within one rural parish, the powers and duties of that authority will be transferred to the parish councils of the rural parishes wholly or partly comprised within that area, or if the area is partly urban, then to the parish councils and urban district council; and if any of such rural parishes have no separate parish council, the parish meeting will, for the purposes of this provision, be substituted for the parish council.

The powers and duties so transferred are, until other provision is made in pursuance of the Act by the county council, to be exercised by a joint committee of the authorities concerned, whether parish councils, parish meetings, or urban district councils (p. 158).

Where the population of a parish not having a separate parish council increases so as to justify the election of such council, the parish meeting may petition the county council, and the

county council may order the election of a parish council in that parish, and may separate the parish from any group in which it may be included, making the necessary alterations and adjustment of property rights and liabilities (p. 139).

Expenses of a Parish Meeting in a Parish having no separate Parish Council.—A rate levied for defraying the expenses of the parish meeting (when added to expenses under any of the adoptive Acts) must not exceed 6d. in the £ in any local financial year (p. 105).

CHAPTER V.—PARISH COUNCILS.

EVERY parish in a rural sanitary district will have its parish meeting, and every such parish which has 300 or more inhabitants will have its parish council (p. 65).

The parish meeting of any rural parish which has 100 or more inhabitants, but less than 300, may decide to have a parish council, and on passing a resolution to that effect the county council must make the necessary order.

The establishment of a parish council is not limited to parishes having 100 and more inhabitants. The parish meeting of any parish with a population less than 200 may apply to the county council for an order for a parish council. The county council must comply in the case of every parish with a population of 100 and upwards if the parish meeting so resolve, and it may comply in cases where the population is less than 100 (pp. 65 and 139). It would seem, however, having regard to the provisions of Sections 36 (1) and 39 (2), that the formation of parish councils in parishes having less than 200 inhabitants is not intended to be encouraged.

A rural parish which has not a parish council of its own may transact its business by means of the parish meeting, or it may be grouped with one or more neighbouring parishes, and so have a parish council for the group.

To constitute a group, an order of the county council is necessary, and the parish meeting of any parish may apply to the county council for such an order (p. 139). No parish can be grouped without the consent of its parish meeting (p. 65). The provisions to be made in a grouping order have been stated on page 9.

Constitution.—The parish council for a rural parish is to consist of a chairman and councillors, and the number of councillors is to be fixed from time to time by the county council. It must not be less than five nor more than fifteen (pp. 67–8).

Every parish council will be a body corporate by the name of the parish council, with the addition of the name of the parish, or if there is any doubt as to the latter name, of such name as the county council, after consultation with the parish meeting of the parish, direct. It will have perpetual succession, and may hold land for the purposes of its powers and duties without licence in mortmain. Any act of the council may be signified by an instrument executed at a meeting of the council, and under the hands or, if an instrument under seal is required, under the hands and seals, of the chairman presiding at the meeting and two other members of the council (p. 68).

Any instrument purporting to be executed under the hands or under the hands and seals of the chairman and of two other members of a parish council or of a parish meeting will, until the contrary is proved, be deemed to have been duly so executed (p. 197).

Where a rural parish is co-extensive with a rural sanitary district, then, until the district is united to some other district, and unless the county council otherwise direct, a separate election of a parish council is not to be held for the parish, but the rural district council, in addition to their own powers, are to have the powers of and be deemed to be the parish council (p. 130).

Parish Wards.—A county council may, on application by the parish council, or not less than one tenth of the parochial electors of a parish, and on being satisfied that the area or population of the parish is so large, or different parts of the population so situated, as to make a single parish meeting for the election of councillors impracticable or inconvenient, or that it is desirable for any reason that certain parts of the parish should be separately represented on the council, order that the parish be divided for the purpose of electing parish councillors into wards, to be called parish wards, with such boundaries and such number of councillors for each ward as may be provided by the order.

Any such order may be revoked or varied by the county council on application by either the council or not less than one tenth of the parochial electors of the parish.

In a parish divided into parish wards there must be a separate election of parish councillors for each ward (p. 104).

Election of Parish Council.—Subject to the disqualifications stated on pages 146—148—

Any man or woman, married or single, may be elected a parish councillor who—

- (1) is a parochial elector of that parish ; or
- (2) has, during the whole of the twelve months preceding the election, resided in the parish, or within three miles thereof (p. 67).

The parochial electors of the parish, or if the parish is divided into wards, then of the ward, will elect the parish councillors for that parish or ward (p. 153).

An elector cannot give more than one vote to any candidate, but he may give one vote to any number of candidates not exceeding the number to be elected (p. 66).

The parish councillors are to be nominated at an assembly of the parish meeting (p. 151) ; and if more persons are nominated for election than there are vacancies, the election will be by ballot according to rules framed under Section 3 (6) (p. 68).

The overseers of each rural parish must convene the first parish meeting of the parish for the first election of parish councillors (p. 181), whether there is or is not a parish council for the parish, and for this purpose the overseers of a parish are to be deemed to be the overseers of every part of the parish (p. 181).

The chairman of the parish meeting at which the first parish councillors are nominated, or in his default the clerk of the guardians, must convene the first meeting of the parish council (p. 181).

The first parish councillors elected under the Act will retire on 15th April, 1896 (p. 181), and the 15th April in each year afterwards will be the ordinary day on which parish councillors will take office and retire therefrom (p. 68).

The term of office of a parish councillor after 15th April, 1896, will be one year (p. 68), but he may resign at any time by giving written notice to the chairman (p. 150). He is eligible for re-election after retirement as well as after the expiration of his year of office (p. 150).

Every parish councillor must at the first meeting after his election, or if the council at the first meeting so permit, then at a later meeting fixed by the council, sign, in the presence of some

member of the council, a declaration that he accepts the office, and if he does not sign such a declaration his office will be void (p. 195).

If any casual vacancy arises in the council, the council must forthwith be convened for filling the vacancy (pp. 150 and 195).

Absence from the meetings for more than six calendar months, except from illness or reason approved by the council, renders the office vacant (p. 148).

If at the annual election of parish councillors any vacancies are not filled by election, such number of the retiring councillors as are not re-elected, and are required to fill the vacancies, will, if willing, continue to hold office. The councillors so to continue are to be those who were highest on the poll at the previous election, or if the numbers were equal or there was no poll, as may be determined by the parish meeting, or if not so determined, by the chairman of the parish council (p. 150).

If the parish council becomes unable to act through want of councillors the county council may order a new election (p. 150), and if subsequently to the first election any difficulty arises as respects the election of any individual councillor, and there is no provision for holding another election, the county council may order a new election to be held, and give the necessary directions for holding it (p. 152).

Meetings of the Parish Council.—A parish council must hold not less than four meetings in each year, of which one will be the annual meeting, and every such meeting must be open to the public unless the council otherwise direct (p. 196).

Annual Meeting ; Election of Chairman.—On or within seven days after the 15th April in each year the parish council must hold an annual meeting (p. 68).

At the annual meeting the parish council must elect a chairman from their own body, or from other persons qualified to be councillors of the parish. The chairman will unless he resigns, or ceases to be qualified, or becomes disqualified (pp. 146—148) continue in office until his successor is elected (p. 68).

The parish council may, if they think fit, appoint one of their number to be vice-chairman, and the vice-chairman will, in the absence or during the inability of the chairman, have the powers and authority of the chairman (p. 196).

The first business at the annual meeting will be to elect a chairman and to appoint the overseers (p. 195).

Convening Meetings.—The chairman may at any time convene a meeting of the parish council. If the chairman refuses to convene a meeting of the council after a requisition for that purpose signed by two members of the council has been presented to him, any two members of the council may forthwith, on that refusal, convene a meeting. If the chairman (without so refusing) does not within seven days after such presentation convene a meeting, any two members of the council may, on the expiration of those seven days, convene a meeting (p. 195).

Notice of Meeting ; Place of Meeting.—Three clear days at least before any meeting of a parish council notice thereof, specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by or on behalf of the chairman of the parish council or persons convening the meeting, must be given to every member of the parish council, and in case of the annual meeting notice specifying the like particulars must be given to every member of the parish council immediately after his election (p. 195).

The parish council may meet at the schoolroom of a public elementary school (p. 70). It must not meet at a public-house unless there is no other available room either free of charge or at a reasonable cost (p. 166).

Procedure at Meetings.—A parish council may make, vary, and revoke standing orders for the regulation of their proceedings and business, and of the proceedings and business at parish meetings for a rural parish having a parish council (p. 197).

No business must be transacted at any meeting of a parish council unless at least one third of the full number of members are present thereat, subject to this qualification, that in no case shall the quorum be less than three.

The names of the members present at any meeting of the parish council, as well as of those voting on each question on which a division is taken, must be recorded, so as to show whether each vote given was for or against the question.

Every question at a meeting of a parish council will be decided by a majority of votes of the members present and voting on that question.

In case of an equal division of votes the chairman of the meeting will have a second or casting vote (p. 196).

Minutes of the proceedings of every parish council and parish meeting must be kept in a book provided for that purpose (p. 197).

A minute of proceedings at a meeting of a parish council, or of a committee of a parish or district council, or at a parish meeting, signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, will be received in evidence without further proof.

Until the contrary is proved, every meeting in respect of the proceedings whereof a minute has been so made will be deemed to have been duly convened and held, and all the members of the meeting will be deemed to have been duly qualified; and where the proceedings are proceedings of a committee, the committee will be deemed to have been duly constituted, and to have had power to deal with the matters referred to in the minutes (p. 197).

The proceedings of a parish council will not be invalidated by any vacancy among their members, or by any defect in the election or qualification of any members thereof (p. 196).

Every cheque or other order for payment of money by a parish council must be signed by two members of the council (p. 196).

Appointment of Officers.—A parish council may appoint one of their number to act as clerk of the council without remuneration.

If no member of the parish council is appointed so to act, and there is an assistant overseer, he, or one of the assistant overseers if more than one, is to be the clerk of the parish council, and the performance of his duties as such must be taken into account in determining his salary.

If there is no assistant overseer, the parish council may appoint a collector of poor rates, or some other fit person, to be their clerk, with such remuneration as they may think fit (p. 102).

But where there is in a rural parish an existing vestry clerk appointed under the Vestries Act, 1850, he is to be the clerk of the parish council, and if there is also an assistant overseer in the parish, that assistant overseer cannot, while the vestry clerk holds office, be the clerk of the parish council (p. 185).

A parish council cannot appoint to the office of vestry clerk.

When a parish council act as a parochial committee by delegation from the district council they are to have the services of the clerk of the district council, unless the district council otherwise direct (p. 102).

The parish council may appoint one of their own number or some other person to act as treasurer without remuneration, and

the treasurer must give such security as may be required by regulations of the county council (p. 102).

Any existing assistant overseer in a parish for which a parish council is elected will, unless appointed by a board of guardians, become an officer of the parish council (p. 186).

Every such officer, vestry clerk, and assistant overseer is to hold his office by the same tenure and upon the same terms and conditions as heretofore, and while performing the same duties he will receive not less salary or remuneration than heretofore.

Where a parish or rural sanitary district is divided by the Act, any officer for the parish or district so divided will hold his office as such officer for each parish or district formed by the division, and his salary will be borne by the respective parishes or districts in proportion to their rateable value at the commencement of the local financial year next after the passing of the Act (p. 186).

Appointment of Committees and Joint Committees.—A parish council may appoint committees, consisting either wholly or partly of members of the council, for the exercise of any powers which, in the opinion of the council, can be properly exercised by committees, but a committee is not to hold office beyond the next annual meeting of the council, and the acts of every such committee must be submitted to the council for their approval.

Where a parish council have any powers and duties which are to be exercised in a part only of the parish, or in relation to a recreation ground, building, or property held for the benefit of a part of a parish, and the part has a defined boundary, the parish council must, if required by a parish meeting held for that part, appoint annually to exercise such powers and duties a committee consisting partly of members of the council and partly of other persons representing the said part of the parish (pp. 160–61).

A parish council may concur with any other parish or district council or councils in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested, and in conferring, with or without conditions or restrictions, on any such committee any powers which the appointing council might exercise if the purpose related exclusively to their own parish or district.

But a council must not delegate to any such committee any power to borrow money or make any rate.

A joint committee cannot hold office beyond the expiration of fourteen days after the next annual meeting of any of the councils who appointed it.

The costs of a joint committee are to be defrayed by the councils by whom it is appointed in such proportions as they may agree upon, or as may be determined in case of difference by the county council.

Where a parish council can under the Act be required to appoint a committee consisting partly of members of the council and partly of other persons, that requirement may also be made in the case of a joint committee (pp. 161-2).

Deposit and Custody of Documents.—All documents required by statute or by standing orders of Parliament to be deposited with the parish clerk of a rural parish must after the election of a parish council be deposited with the clerk, or, if there is none, with the chairman of the parish council (p. 102). Among the documents to be so deposited and preserved will be the awards of arbitrators appointed to determine questions concerning the hiring of land for allotments by the parish council (p. 88).

The custody of the registers of baptisms, marriages, and burials, and of all other books and documents containing entries wholly or partly relating to the affairs of the Church or to ecclesiastical charities, except documents directed by law to be kept with the public books, writings, and papers of the parish, are to remain as provided by the existing law unaffected by the Act. All other public books, writings, and papers of the parish, and all documents directed by law to be kept therewith, must either remain in their existing custody, or be deposited in such custody as the parish council may direct. The incumbent and churchwardens on the one part, and the parish council on the other, are to have reasonable access to all such books, documents, writings, and papers, and any difference as to custody or access is to be determined by the county council (p. 102).

Every parochial elector of a rural parish may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the parish council of the parish or parish meeting.

Every parochial elector of a parish in a rural district may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belong-

ing to or under the control of the district council of the district (p. 163).

Powers and Duties of Parish Councils.—The power and duty of appointing overseers of the poor, and the power of appointing and revoking the appointment of an assistant overseer, is to be transferred to the parish council. That council must in each year, at their annual meeting, appoint the overseers of the parish, and fill as soon as may be any casual vacancy in the office of overseer of the parish. In either case notice thereof must forthwith be given in the prescribed form to the board of guardians (p. 72).

If notice in the prescribed form is not received by the guardians within three weeks after the 15th of April, or after the occurrence of a vacancy in the office of overseer, as the case may be, the guardians must make the appointment or fill the vacancy. Any overseer appointed by them will supersede any overseer previously appointed whose appointment has not been notified (p. 154).

As from the appointed day the churchwardens of every rural parish will cease to be overseers, and an additional number of overseers may be appointed to replace the churchwardens.

The legal interest in all property vested either in the overseers or in the churchwardens and overseers of a rural parish, other than property connected with the affairs of the church, or held for an ecclesiastical charity, will, if there is a parish council, vest in that council, subject to all trusts and liabilities affecting the same, and all persons concerned must make or concur in making any necessary transfers (p. 72).

Upon the parish council coming into office, there will be transferred to it—

The powers, duties, and liabilities of the vestry of the parish, except those which relate to the affairs of the church or to ecclesiastical charities; and any power, duty, or liability transferred by the Act from the vestry to any other authority.

The powers, duties, and liabilities of the churchwardens of the parish (except those which relate to the affairs of the church or to charities, or are powers and duties of overseers), including the obligations of the churchwardens

with respect to maintaining and repairing closed churchyards wherever the expenses of such maintenance and repair are repayable out of the poor rate under the Burial Act, 1855 (p. 74).

The powers, duties, and liabilities of the overseers or of the churchwardens and overseers with respect to—

appeals or objections by them in respect of the valuation list;

appeals in respect of the poor rate, or county rate, or the basis of the county rate;

the provision of parish books, vestry room or parochial office, parish chest, fire-engine, fire-escape, or matters relating thereto;

the holding or management of parish property, not relating to affairs of the church or held for an ecclesiastical charity;

holding or management of village greens, or of allotments, whether for recreation grounds or for gardens, or otherwise for the benefit of the inhabitants.

The powers exercisable with the approval of the Local Government Board by the board of guardians in respect of the sale, exchange, or letting of any parish property (p. 75).

The same power of making any complaint or representation as to unhealthy dwellings or obstructive buildings as is conferred on inhabitant householders by the Housing of the Working Classes Act, 1890 (pp. 77–8), but without prejudice to the powers of such householders (p. 75).

The same power of making a representation with respect to allotments, and of applying for the election of allotment managers, as is conferred on parliamentary electors by the Allotments Act, 1887 (p. 224); or the Allotments Act, 1890, but without prejudice to the powers of those electors.

The powers and duties of wardens, committee, or managers for the purpose of allotments in the parish. For the purpose of Section 16 of the Small Holdings Act, 1892, two members of the parish council are to be substituted for allotment managers or persons appointed as allotment managers (p. 75).

A parish council will also have the following powers, namely, power (p. 80)—

to provide or acquire buildings for public offices and for meetings, and for any purposes connected with parish business or with the powers or duties of the parish council or parish meeting;

- to provide or acquire land for such buildings, and for a recreation ground and for public walks ;
- to apply to the Board of Agriculture under Section 9 of the Commons Act, 1876 (p. 82)—
- to exercise with respect to any recreation ground, village green, open space, or public walk, which is for the time being under their control, or to the expense of which they have contributed, such powers as may be exercised by an urban authority under Sections 164 and 183-6 of the Public Health Act, 1875 (pp. 364, 366, and 367), or Section 44 of the Public Health Acts Amendment Act, 1890 (p. 82), in relation to recreation grounds or public walks ;
- to utilise any well, spring, or stream within their parish, and provide facilities for obtaining water therefrom, but so as not to interfere with the rights of any corporation or person (p. 80) ; land for the purpose of any supply of water cannot be acquired otherwise than by agreement (p. 86) ;
- to deal with any pond, pool, open ditch, drain, or place containing, or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudicial to health, by draining, cleansing, covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right or the sewage or drainage works of any local authority (p. 80) ;
- to acquire by agreement (p. 80), but not otherwise (p. 86), any right of way, whether within their parish or an adjoining parish, the acquisition of which is beneficial to any of the inhabitants of the parish ;
- to accept and hold any gifts of property, real or personal, for the benefit of any of the inhabitants of the parish ;
- to execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of any of the foregoing powers, or in relation to any parish property not relating to affairs of the church or held for an ecclesiastical charity ;
- to contribute towards the expense of doing any of the things above mentioned (p. 81).

A parish council may let, or, with the consent of the parish meeting, sell or exchange any land or buildings vested in the council. The power of letting for more than a year, and the

power of sale or exchange in the case of property acquired at the expense of any rate, or which is applied in aid of any rate, requires the consent of the Local Government Board. In any other case the consent or approval necessary under the Charitable Trusts Acts, 1853 to 1891, for the sale of charity estates, must be got, except that the consent or approval under those Acts is not required for the letting for allotments of land vested in the parish council (p. 81).

The obligation of a district council with respect to the supply of water or the execution of sanitary works is not diminished by the powers given to parish councils.

Notice of any application to the Board of Agriculture in relation to a common must be served upon the council of every parish in which any part of the common to which the application relates is situate (p. 82).

The parish council may exercise any power delegated to them by the rural district council under Section 15 of the new Act, and where the district council appoint a parochial committee consisting partly of members of the district council and partly of other persons, those other persons must, if there is a parish council, be selected from the members of the parish council (p. 99).

Highways.—The consent of the parish council and of the district council is required for the stopping, in whole or in part, or for the diversion, of a public right of way in a rural parish, and before a highway in a rural parish can be declared to be unnecessary for public use and not repairable at the public expense, the consent of the parish council must also be obtained (p. 94).

The parish council must give public notice of any intended resolution proposing to give such consent. If a resolution to consent is passed, it must, before it can operate, be confirmed by the parish council at a meeting held not less than two months after the public notice is given. Moreover, if a parish meeting held before the confirmation resolve that the consent ought not to be given, the resolution to consent will not operate.

A parish council may, subject to the provisions of the Act (see p. 91) with respect to restrictions on expenditure, undertake the repair and maintenance of all or any of the public footpaths within their parish, not being footpaths at the side of a public

road, but this will not relieve any other authority or person from any liability with respect to such repair or maintenance (p. 94).

Acquiring Land.—A parish council are empowered to acquire land by agreement, and for that purpose the Lands Clauses Acts are incorporated with the new Act, except the provisions of those Acts relating to the purchase and taking of land otherwise than by agreement (p. 83).

If a parish council are unable to acquire by agreement and on reasonable terms suitable land for any purpose for which they are authorised to acquire it, they may represent the case to the county council, who must inquire into the representation (p. 84).

The county council are empowered, after inquiry, to make an order putting in force the provisions of the Lands Clauses Acts respecting the purchase and taking of land otherwise than by agreement.

If, however, they refuse to make any such order, the parish council, or if the proceeding is taken on the petition of the district council, then the district council, may petition the Local Government Board, who, after local inquiry, may make the order. Any such order overruling the decision of the county council must be laid before Parliament by the Local Government Board (p. 84).

Hiring Land.—The parish council have power to hire land for allotments. If they are satisfied that allotments are required, and are unable to hire suitable land by agreement on reasonable terms, they must represent the case to the county council, who may make an order authorising the parish council to hire compulsorily for allotments, for a period not less than fourteen years nor more than thirty-five years, such land in or near the parish as is specified in the order. As respects confirmation and otherwise the order is subject to the like provisions as an order of the county council for acquiring land otherwise than by agreement (p. 87).

Arbitration.—A single arbitrator, appointed in accordance with the provisions of Section 3 of the Allotments Act, 1887, may determine any question as to the terms and conditions of the hiring; or as to the amount of compensation for severance; or as to the compensation to any tenant upon the determination of his tenancy; or as to the apportionment of the rent between the land taken by the parish council and the land not taken from the

tenant; or as to any other matter incidental to the hiring of the land by the council, or the surrender thereof at the end of their tenancy; but the arbitrator in fixing the rent is not to make any addition in respect of compulsory hiring (p. 88).

The arbitrator, in fixing rent or other compensation, must take into consideration all the circumstances connected with the land; the use to which it might otherwise be put by the owner during the term of hiring; and any depreciation of the value to the tenant of the residue of his holding caused by the withdrawal from the holding of the land hired by the parish council.

Any compensation awarded to a tenant in respect of any depreciation of the value to him of the residue of his holding caused by the withdrawal from the holding of the land hired by the parish council must as far as possible be provided for by taking such compensation into account in fixing, as the case may require, the rent to be paid by the parish council for the land hired by them, and the apportioned rent, if any, to be paid by the tenant for that portion of the holding which is not hired by the parish council.

The award of the arbitrator or a copy of it, together with a report signed by him as to the condition of the land taken by the parish council, must be deposited and preserved with the public documents of the parish, and the owner for the time being of the land may at all reasonable times inspect and take copies thereof (p. 88).

Where land is hired for allotments, the parish council will have the powers of Sections 5—8 of the Allotments Act, 1887 (p. 226), relating to the improvement, management, letting, and use of lands for allotments (p. 89). Those powers, however, are given with the following modifications:

- (a) The parish council may let to one person an allotment or allotments exceeding one acre; but if the land is hired compulsorily, not exceeding in the whole four acres of pasture, or one acre of arable and three acres of pasture;
- (b) They may permit to be erected on the allotment any stable, cowhouse, or barn; and
- (c) They must not break up, or permit to be broken up, any permanent pasture, without the assent in writing of the landlord.

On the determination of any tenancy created by compulsory hiring, a single arbitrator appointed in accordance with Section 3 of the Allotments Act, 1887, may determine the amount due by

the landlord for compensation for improvements, or by the parish council for depreciation. Such compensation must be assessed in accordance with the provisions of the Agricultural Holdings (England) Act, 1883 (p. 207).

There is nothing to authorise the compulsory hiring of any mines or minerals, or to confer any right to take, sell, or carry away any gravel, sand, or clay, or to authorise the hiring of any land already owned or occupied as a small holding within the meaning of the Small Holdings Act, 1892 (p. 89).

If the landlord satisfies the county council that land hired by the parish council for allotments is required by him for the purpose of working and getting the mines, minerals, or surface minerals thereunder, or for any road or work to be used in connection with such working or getting, the landlord may resume possession thereof upon giving to the parish council twelve calendar months' previous notice in writing of his intention so to do. Upon such resumption the landlord must pay to the parish council and to the allotment holders for the time being such sum by way of compensation for the loss of the land for the purposes of allotments as may be agreed upon by the landlord and the parish council, or in default of such agreement, as may be awarded by a single arbitrator to be appointed in accordance with Section 3 of the Allotments Act, 1887 (p. 90).

Adoptive Acts.—The power of adopting any of these Acts is vested in the parish meeting (p. 79).

The parish council may be required by the parish meeting to exercise the powers of any of the adoptive Acts which may, on the appointed day, be in force in a part only of a rural parish; and, without the intervention of the parish meeting, the parish council may accept a transfer of the powers of the existing authority under any of those Acts (p. 158).

If the area on the appointed day under any authority under any of the adoptive Acts will not after that day be comprised within one rural parish, the powers and duties of the authority will be transferred to the parish councils of the rural parishes wholly or partly comprised in that area; or, if the area is partly comprised in an urban district, to those parish councils and the district council of the urban district, and will, until other provision is made in pursuance of the Act, be exercised by a joint committee appointed by those councils (p. 158).

The property, debts, and liabilities of any authority under any

of the adoptive Acts whose powers are transferred will continue to be the property, debts, and liabilities of the area of that authority, and the proceeds of the property must be credited, and the debts and liabilities and the expenses incurred in respect of the said powers, duties, and liabilities must be charged to the account of the rates or contributions levied in that area, and where that area is situate in more than one parish the sums credited to and paid by each parish must be apportioned (p. 158).

The parish council may apply to the county council to alter the boundaries of any such area, and the latter may, by order, do so if they consider that the alteration can properly be made without any undue alteration of the incidence of liability to rates and contributions or of the right to property belonging to the area, regard being had to any corresponding advantage to persons subject to the liability or entitled to the right (p. 158).

Property held by Trustees for Inhabitants of a Parish; Transfer to Parish Council:—Not the least important of the powers conferred upon parish councils will be those enabling them to get control of the administration of parochial charities other than those which are for strictly ecclesiastical purposes, and of property held for parish purposes. Definitions of the two classes of charities will be found on pages 178 and 179, and it must be remembered that ecclesiastical charities are not affected by the provisions of the new Act (p. 95).

The classes of property dealt with may be divided into five groups :

(1) *Property vested in trustees, in their capacity of private persons, who hold the property for public purposes for the benefit of all or any of the inhabitants of a rural parish :*

In this group of cases, whether the property is held for the purposes of a public recreation ground or of public meetings, or of allotments, whether under Inclosure Acts or otherwise, or for any public purpose connected with a rural parish (except for an ecclesiastical charity), the trustees may continue to hold the property, or they may, if the parish council consent, relieve themselves of the burden by transferring it, either to the parish council or to persons nominated by that council. If the parish council consent to the transfer the approval of the Charity Commissioners must be obtained, and the parish council (or the persons nominated by them, as the case may be) will hold the

property on the trusts, and subject to the conditions on which the trustees previously held it (p. 95).

(2) *Property held for some parochial charity, vested in trustees, some or all of whom hold it, not in their capacity of private persons, but in their capacity of overseers (or overseers and churchwardens) of a parish :*

In the second group of cases the overseer-trustees have no option of continuing as such in their trusteeship. The parish council must appoint in their place councillors of the parish, or other persons. It is, of course, open to the parish council to appoint the persons who are overseers, but in this case they will be trustees, not because they happen to be overseers, but because they have been appointed by the parish council.

The number of councillors or other persons appointed must not exceed the number of overseers (or overseers and churchwardens) who are replaced. If there are other trustees acting with the overseers (or overseers and churchwardens), those trustees will in future act with the councillors or other persons appointed by the parish council (p. 95).

To facilitate the dealing with any property, the legal estate in which is vested in the churchwardens and overseers of any parish by virtue of the Poor Relief Act, 1819 (*see* Section 17, set out on page 157), it is provided in Section 52 (4) of the new Act that the consent of such churchwardens and overseers (or of the parish council as their successors) shall not be required to a vesting order under the Charitable Trusts Acts, 1853 to 1891, dealing with such legal estate. But where the churchwarden and overseers (or the parish council as their successors) have active powers of management, their rights, powers, and duties are not to be affected by this provision (p. 156).

(3) *Property held for some parochial charity, vested in trustees, none of whom are elected by the ratepayers or parochial electors or inhabitants of the parish, or appointed by the parish council or parish meeting :*

In the third group of cases the parish council may appoint additional members of the body governing the charity not exceeding the number allowed by the Charity Commissioners in each case; and if the management of any such charity is vested in a sole trustee, the number of trustees may, with the approval of the Charity Commissioners, be increased to three, one of whom may be nominated by such sole trustee and one by the parish council or parish meeting (p. 95).

(4) *Property held for some parochial charity by trustees who (or some of whom) under the trusts of the charity, are to be appointed from time to time by the vestry of the parish:*

In this group of cases the trustees (or some of them) will in future be appointed by the parish council of the parish (p. 96).

(5) *Property held by trustees for charitable purposes for the benefit of persons who (or some of whom) are to be selected from time to time by the vestry of the parish:*

In these cases the persons who are to benefit will in future be selected by persons appointed by the parish council (p. 96).

It must be noted that the above provisions with respect to the appointment of trustees (except so far as the appointment is transferred from the vestry) will not apply to any charity until the expiration of forty years from the date of its foundation; or, in the case of a charity founded before the passing of this Act by a donor or by several donors any one of whom is living at the passing of the Act, until the expiration of forty years from the passing of the Act, unless with the consent of the surviving donor or donors (pp. 96-7).

The parish council will be entitled to have sent to them the draft of every scheme relating to a charity, not being an ecclesiastical charity, which affects a rural parish. It should be sent to them on or before the publication of the notice of the proposal to make an order for the scheme. The council may, subject to the provisions of the Act with respect to restrictions on expenditure (pp. 90 and 91), and to the consent of the parish meeting, either support or oppose the scheme, and for that purpose they will have the same right as any inhabitants of a place directly affected by the scheme.

The accounts of all parochial charities, not being ecclesiastical charities, must annually be laid before the parish meeting of any parish affected thereby, and the names of the beneficiaries of dole charities must be published annually in such form as the parish council, or where there is no parish council the parish meeting, think fit (p. 96).

Complaint by Parish Council of Default of a District Council.

—If in the opinion of a parish council the rural district council have made default in providing the parish with sufficient sewers, or in providing the parish with a supply of water in cases where

danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or in enforcing with regard to the parish any provisions of the Public Health Acts which it is their duty to enforce; or in taking proceedings on a representation of the parish council that any public right of way within the district or an adjoining district in the county or counties in which the district is situate has been unlawfully stopped or obstructed, or that an unlawful encroachment has taken place on any roadside waste within the district, the parish council may make complaint to the county council, and that council may take such action upon the complaint as is indicated in Section 16 or Section 26 of the Act as the case may be (pp. 100 and 116).

Where a representation as to the want of land for allotments has been made to a sanitary authority under the Allotments Act, 1887 (p. 224), and disregarded by them, the parish council will have the like power of petitioning the county council (p. 86) as is given to six parliamentary electors by Section 2 of the Allotments Act, 1890 (p. 234).

Expenses of Parish Councils ; Loans.—A parish council must obtain the consent of the parish meeting before it can lawfully incur expenses or liabilities which will involve a rate exceeding threepence in the pound for any local financial year.

Before it can lawfully incur any expense or liability which will involve a loan a parish council must obtain the approval of the parish meeting and the county council.

The sum raised in any local financial year by a parish council for their expenses (other than expenses under the adoptive Acts) must not exceed a sum equal to a rate of sixpence in the pound on the rateable value of the parish at the commencement of the year (p. 91).

The expenses of a parish council and of a parish meeting, including the expenses of any poll, must, as a rule, be paid out of the poor rate. Where there is a parish council that council must pay the expenses of the parish meeting. The parish council (or where there is no parish council the chairman of the parish meeting) will, for the purpose of obtaining payment of such expenses, have the same powers as a board of guardians have for the purpose of obtaining contributions to their common fund (*see* pp. 91–2).

The demand note for any rate levied for defraying the expenses of a parish council or a parish meeting, together with other expenses, must state in the prescribed form the proportion of the rate levied for the expenses of the council or meeting, and the proportion (if any) levied for the purpose of any of the adoptive Acts (p. 91).

Borrowing by Parish Council.—A parish council may borrow for any of the following purposes (p. 92) :

- (a) For purchasing any land, or building any buildings, which the council are authorised to purchase or build ; (b) for any purpose for which the council are authorised to borrow under any of the adoptive Acts ; and (c) for any permanent work or other thing which the council are authorised to execute or do, and the cost of which ought, in the opinion of the county council and the Local Government Board, to be spread over a term of years.

The consent of the county council and the Local Government Board is necessary. The conditions of borrowing are similar to those for defraying expenses incurred in the execution of the Public Health Acts. The money must be borrowed on the security of the poor rate, and of the whole or part of the revenues of the parish council, and the limit of the sum to be borrowed is one half of the assessable value of the premises assessable within the parish.

The parish council may borrow the money from the county council if they are willing to lend it (p. 93).

A parish council must conform to the provisions of the new Act in borrowing for the purposes of any of the adoptive Acts, but the charge for the purpose of any of the adoptive Acts will ultimately be on the rate applicable to the purposes of that Act (p. 93).

CHAPTER VI.—APPLICATION OF THE ACT TO LONDON AND TO THE WOOLWICH LOCAL BOARD.

Guardians of Poor Law Unions.—The provisions of Part II of the Act (pp. 106—129) relating to poor law guardians are, by Section 30 (p. 124), applied to the administrative county of London.

The chief effect of this provision will be that, subject to the disqualifications mentioned in Section 46 (p. 146)—

- (1) Any man or woman, married or single, will be qualified to be elected a guardian who is a parochial elector (pp. 143-6 and p. 178) for any parish or ward of a parish within the union, or who has, during the whole of the twelve months preceding the election, resided in the union (p. 106).
- (2) Subject to the disqualifications specified in pages 144-146, the persons entitled to vote at an election of guardians for a parish or ward of a parish will be the parochial electors (*see* pp. 143-146 and 178) of that parish or ward, whether they are ratepayers or not (pp. 106-7).
- (3) No elector will be able to give more than one vote to any one candidate, but he may give one vote to any number of candidates not exceeding the number to be elected (p. 107).
- (4) There will be no *ex officio* or nominated guardians, but the board of guardians will be able to elect a chairman or vice-chairman, or both, and one or two, but not more than two, other persons from outside their own body, but from persons qualified to be guardians of the union. On the first election (to take place in November, 1894) (p. 189), but not necessarily at subsequent elections, the board of guardians must choose the four persons just referred to from among those who have been *ex officio* or nominated guardians of the union, provided they have actually served as such and are willing to serve again if elected (pp. 106-7).

Vestries; District Boards; Woolwich Local Board.—Subject to the disqualifications mentioned in Section 46 (p. 146)—

- (1) Any man or woman, married or single, will be qualified to be elected as vestryman, member of a district board, or of Woolwich Local Board, who is a parochial elector of the parish or district (pp. 143-6 and p. 178), or has, during the whole of the twelve months preceding the election, resided in the parish or district (pp. 110 and 125).

The district boards in London will be elected by the vestries of the parishes included within the jurisdictions of such district boards respectively, as before the passing of the Act.

- (2) Subject to the disqualifications mentioned on (pp. 144—

146), the persons entitled to vote at an election of vestrymen for a parish or ward of a parish in the administrative county of London, or for Woolwich Local Board, will be the parochial electors (pp. 143-6 and p. 178) for that parish or district, whether they are ratepayers or not (pp. 110 and 125).

- (3) No elector will be able to give more than one vote to any one candidate, though he may give one vote to any number of candidates not exceeding the number to be elected (pp. 110 and 125).
- (4) There will be no *ex officio* or nominated members of the vestry (pp. 110 and 125).
- (5) The election will be conducted according to the rules issued under the Act by the Local Government Board (pp. 110 and 125).
- (6) *Chairman*.—The rector or other minister of the parish will no longer be entitled to be chairman at the meetings of the vestry, but each of the vestries except those electing district boards, and each of the district boards and the Woolwich Local Board must at their first meeting after the annual election of members elect a chairman for the year (p. 125).

The chairman for the time being of every vestry and district board will be a justice of the peace for the county (unless a woman or personally disqualified by any Act), subject to his taking the necessary oaths (pp. 109 and 125).

- (7) Every vestry will be entitled to hold their meetings at such time as the vestry may direct (p. 125).

The provisions of the Municipal Corporations Act, 1882, and the enactments amending the same (*see* page 153, note 4) with respect to the expenses of elections of councillors of a borough, and to the acceptance of office, resignation, re-eligibility of holders of office, and the filling of casual vacancies, will with the necessary modifications apply to the election of metropolitan vestrymen and members of the Woolwich Local Board, except that there will be no election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs (p. 152).

Metropolitan Auditors.—The qualifications of persons entitled to elect and of persons entitled to be elected to the post

of auditor for parishes under the Metropolis Management Acts, 1855 to 1890, are the same as for persons entitled to elect and of persons entitled to be elected as vestrymen in the metropolis (p. 125).

Conferring Parish Powers.—The Local Government Board may on the application of any vestry or district board, or of any representative body in any parish or district within the administrative county of London, make an order conferring on that vestry or district board, or some other representative body within the parish or district, all or any of the following matters, namely, the appointment of overseers and assistant overseers, the revocation of appointment of assistant overseers, any powers, duties, or liabilities of overseers, *and any powers, duties, or liabilities of a parish council*, either for the whole or to specified parts of the parish or district board (p. 127).

Where the powers of the Act with regard to the appointment of trustees of any charity have been conferred upon a metropolitan vestry, district board, or the Woolwich Local Board, if it appears to the Local Government Board that by reason of the circumstances connected with any parish under the jurisdiction of such vestry or district board, or with the parochial charities of such parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the vestry and district board, or Woolwich Local Board, be properly represented on that body, they may by their order provide that such of those trustees as are appointed by the vestry, district board, or local board, or some of them, shall be appointed on the nomination of the vestrymen elected for the ward or wards comprising such parish or any part of the parish (p. 127).

Term of Office of Vestrymen, Guardians, and Members of Woolwich Local Board.—The vestrymen and auditors first elected under the Act will hold office and retire in the manner provided by Section 79 (3), (6), and (10) of the Act (pp. 181—183).

Bringing the Act into Operation.—If any difficulty arises with respect to the first election of guardians or of members of the local board of Woolwich, or any vestry in the county of London, or of auditors in the county of London, or to the first meeting of a board of guardians, or any such local board or vestry, or if from no election being held, or an election being defective or otherwise, the first board of guardians, or local board, or vestry has

not been properly constituted, or there are no auditors under the Metropolis Management Acts, 1855 to 1890, or an insufficient number properly elected, the London County Council may by order make any appointment, or do anything which appears to them necessary to remedy the defect or difficulty. Any such order may modify the provisions of the Act and the enactments applied by or rules framed under it, so far as may appear to the county council necessary or expedient for carrying the order into effect (pp. 184-5).

(*See also* the instructional circular on p. 414.)

CHAPTER VII.—BOARDS OF GUARDIANS.

THE Act makes various changes in the constitution of boards of guardians of poor law unions. The qualifications of the persons to be elected, and of the persons who will be entitled to vote, are set out in Section 20 (p. 106), which also indicates the mode of their election, and contains provisions as to their retirement.

Of the guardians first elected under the Act, one third as nearly as may be will continue in office until the 15th April, 1896; one third as nearly as may be until the 15th April, 1897; and the remainder will continue in office until the 15th April, 1898 (p. 181).

The guardians to retire respectively on the 15th April, 1896, and on the 15th April, 1897, will be the guardians for such parishes, wards, or other areas as may be determined by the county council for the purpose of the rotation.

Where guardians retire together at the end of every three years, the guardians and district councillors first elected under the Act will retire on the 15th April, 1898 (p. 181).

The district councillors for any parish or other area in a rural district will be the representatives of that parish or area on the board of guardians, and when acting in that capacity will be deemed to be guardians of the poor, and guardians as such will not be elected for that parish or area (p. 107).

The provisions in Section 36 of the Act (p. 131) enable a county council to make alterations in poor law unions, and any board of guardians affected by an order under that section making any change in the area or boundary of a county, parish, or union

may petition the Local Government Board against the confirmation of the order.

The appointment of overseers is vested in the parish council, but if notice of an appointment in any parish is not duly received by the guardians (p. 154) they may make the appointment.

The powers hitherto exercised by boards of guardians in regard to the sale, exchange, and letting of parish property will in future be exercised by parish councils (p. 75).

The proceedings of boards of guardians will from the appointed day be regulated in the same manner as those of local boards under the Public Health Act (pp. 163 and 383).

Subject to certain modifications (p. 152) the provisions of the Municipal Corporations Act, 1882, with respect to the election of persons, their acceptance of office, resignation, and re-eligibility, are now applied to boards of guardians (p. 152). Any member of the board who for six months fails, without sufficient excuse, to attend the board meetings, vacates his office (p. 148).

It will be the duty of existing boards of guardians to take the necessary measures for the conduct of the first elections of boards of guardians under the new Act.

For further information as to the action necessary to bring the Act into operation the reader should refer to the instructional circulars of the Local Government Board, printed on pp. 410—412.

LOCAL GOVERNMENT ACT, 1894.

[56 & 57 VICT., CHAPTER 73.]

An Act to make further provision for Local Government in England and Wales. [5th March, 1894.]

A. D. 1894.

BE IT ENACTED by the QUEEN'S MOST EXCELLENT MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.

PART I.

PARISH MEETINGS AND PARISH COUNCILS.

Constitution of Parish Meetings and Parish Councils.

1. (1) There shall be a parish meeting for every rural parish,¹ and there shall be a parish council for every rural parish which has a population of three hundred² or upwards: Provided that an order of the county council in pursuance of Part III³ of this Act—

Constitution of parish meetings and establishment of parish councils.

(a) shall, if the parish meeting of a rural parish having a population of one hundred or upwards so resolve, provide for establishing a parish council in the parish, and may, with the consent of the parish meeting of any rural parish having a population of less than one hundred,² provide for establishing a parish council in the parish;⁴ and

(b) may provide for grouping⁵ a parish with some neighbouring parish or parishes under a common parish council, but with a separate parish meeting for every parish so grouped, so, however, that no parish shall be grouped without the consent of the parish meeting for that parish.

(2) For the purposes of this Act every parish in a rural sanitary district⁶ shall be a rural parish.

(3) Where a parish is at the passing of this Act

Sec. 1. situate partly within and partly without a rural sanitary district,⁷ the part of the parish which is within the district, and the part which is without, shall as from the appointed day,⁸ but subject to any alteration of area made by or in pursuance of this or any other Act,⁹ be separate parishes in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876,¹⁰ and the Acts amending the same.

¹ For definition of "parish" *see* Section 75 and note thereto.

² For provisions for increase or decrease of population *see* Section 39. Where a rural parish is co-extensive with a rural sanitary district a separate parish council is not to be elected for the parish, but the district council will have the powers of the parish council in addition to their own (Section 36 [4]).

³ *See* Section 36 (p. 129).

⁴ As to power of a parish meeting to apply for a grouping order *see* Section 38 (4). The concluding part of Section 38 (4) authorises a parish meeting to apply for a parish council in a parish which has a population less than 200; *see* also Section 36 (1) (c). Apparently the county council *must* set up a parish council if required in parishes of 100 inhabitants and upwards, and *may* do so in parishes of less than 100.

⁵ As to the provisions which a grouping order must contain *see* Section 38, which also gives the county council power to dissolve a group.

⁶ A rural sanitary district is that area of a Poor Law Union which is not coincident with or wholly included in an urban sanitary district, with the exception of any portions of the Union included in an urban sanitary district (Section 9, P. H. A., 1875).

⁷ Provision for a parish situated in more than one urban district is made in Section 36 (2), and as to parishes affected by creation of new boroughs or urban districts *see* Section 54.

⁸ *See* Section 84 (4).

⁹ *See* Sections 36 and 69. The county council has power to settle the names of parishes so formed. (*See* Sections 3 [9] and 55.)

¹⁰ By Section 6 of the Divided Parishes, &c., Act, 1876, every parish constituted under that Act is a parish for all lay and civil purposes to which a parish may be liable or entitled.

Parish
meetings.

2. (1) The parish meeting for a rural parish shall consist of the following persons, in this Act referred to as parochial electors,¹ and no others, namely, the persons registered in such portion either of the local government register of electors¹ or of the parliamentary register of electors¹ as relates to the parish.

(2) Each parochial elector may, at any parish meeting, or at any poll⁵ consequent thereon, give one vote and no more on any question, or, in the case of an election,² for each of any number of persons not exceeding the number to be elected.

(3) The parish meeting³ shall assemble at least once

Sec. 2.

in every year, and the proceedings of every parish meeting shall begin not earlier than six o'clock in the evening.

(4) Subject to the provisions of this Act as to any particular person being the chairman⁴ of a parish meeting, the meeting may choose their own chairman.

(5) A poll⁵ consequent on a parish meeting shall be taken by ballot.

(6) The reasonable expenses⁶ of and incidental to the holding of a parish meeting or the taking of a poll⁵ consequent thereon shall be defrayed as hereinafter provided.⁷

(7) With respect to parish meetings the provisions in the First Schedule⁸ to this Act shall have effect.

[For provisions as to parish meetings in parishes which have no parish council *see* Section 19.]

¹ *See* Section 44 and note; also Section 75 (2). For provisions as to parish meetings for a ward or part of a parish *see* Section 49.

² Thus if there are four candidates and three vacancies, an elector may give one vote to each of three candidates, or one to each of two, or one to one; but he must not give more than one vote to any candidate.

³ The first parish meeting is to be convened by the overseers of each rural parish as provided in Section 78. Subsequent parish meetings are to be held as provided in Section 45. In parishes not having separate parish councils the provisions of Section 19 will apply; at least two meetings a year must be held in these latter parishes. The annual assembly of the parish meeting must take place on the 25th of March, or within seven days before or after (I Sched. I, 1, p. 193).

⁴ In parish meetings under this Act the rector, vicar, or other minister of the parish has no right as such to be chairman. If the chairman of the parish council (Section 3 [8]) is present at a parish meeting, is not a candidate for election at the meeting, is not disqualified (Section 46), and is willing to take the chair (Sched. I, 1 [10]), he is entitled to be chairman (*see* Section 45).

⁵ *See* Section 48 (8) as to the mode of taking a poll.

⁶ The accounts will be periodically audited (Section 58), and the decision whether or not any expenses are "reasonable" rests in the first place with the auditor. There is an appeal to the Local Government Board from his decision.

⁷ As to the mode of defraying these expenses *see* Section 11 (4) and Section 48 (7).

⁸ *See* p. 193 for the rules for parish meetings.

3. (1) The parish council for a rural parish shall be elected from among the parochial electors¹ of that parish or persons who have during the whole of the twelve months preceding the election resided in the parish or within three miles thereof,² and shall consist of a chairman and councillors, and the number of councillors shall be such as may be fixed from time to

Constitution
of parish
council.

Sec. 3. time by the county council,³ not being less than five nor more than fifteen.

(2) No person shall be disqualified¹¹ by sex or marriage for being elected or being a member of a parish council.

(3) The term of office of a parish councillor shall be one year.⁴

(4) On the fifteenth day of April⁵ in each year (in this Act referred to as the ordinary day of coming into office of councillors) the parish councillors shall go out of office, and their places shall be filled by the newly elected councillors.

(5) The parish councillors shall be elected by the parochial electors¹ of the parish.

(6) The election of parish councillors shall, subject to the provisions of this Act,⁶ be conducted according to rules framed⁷ under this Act for that purpose by the Local Government Board.

(7) The parish council shall in every year, on or within seven days after the ordinary day of coming into office of councillors, hold an annual meeting.

(8) At the annual meeting the parish council shall elect, from their own body or from other persons qualified to be councillors of the parish, a chairman,⁸ who shall, unless he resigns,⁹ or ceases to be qualified,¹⁰ or becomes disqualified,¹¹ continue in office until his successor is elected.

(9) Every parish council shall be a body corporate by the name of the parish council, with the addition of the name of the parish, or if there is any doubt as to the latter name,¹² of such name as the county council after consultation with the parish meeting of the parish direct, and shall have perpetual succession, and may hold land for the purposes of their powers and duties without licence in mortmain; and any act of the council may be signified by an instrument executed at a meeting of the council, and under the hands or, if an instrument under seal¹³ is required, under the hands and seals, of the chairman presiding at the meeting and two other members of the council.

(10) With respect to meetings of parish councils the provisions in the First Schedule¹⁴ to this Act shall have effect.

¹ See Section 44 and note; also Section 75 (2).

² Observe that a parish councillor need not be a resident in the parish for which he acts. It is sufficient if he resides within three miles of the boundary of that parish.

³ The county council may delegate their powers to a committee (Section 83).

Note to
Sec. 3.

⁴ He is eligible for re-election; he may resign (Section 47 [2], [3]).

⁵ See Section 73 as to this day falling on Sunday, Good Friday, or Bank Holiday. The councillors first elected will not go out of office until 15th April, 1896 (Section 78 [3]).

⁶ Where wards have been constituted, parish councillors must be elected for each ward. See Section 18 (4) and Section 48.

⁷ The rules and regulations issued under this Act by the Local Government Board, up to the present time, are printed in the Appendix. As to vacancies not filled by election at the annual election of parish councillors see Section 47.

⁸ The parish council may also appoint a vice-chairman. (See Sched. I, 2 [11], p. 196.)

⁹ See Section 47 (3) as to mode of resigning.

¹⁰ The qualification for election as chairman is indicated in subsection (1) above.

¹¹ See Section 46 as to disqualifications for being elected.

¹² See also Section 55 as to the power of county councils to alter names of parishes.

¹³ As a rule the contracts of corporate bodies must be under seal:

In *Hunt v. Wimbledon L. B.* (4 C. P. D. 48) Cotton, L. J., said:—"The common law being that a corporation cannot bind itself by contract except under seal, there are certain exceptions to that rule. This is one exception, that for the purpose of carrying out the ordinary business for which the corporation has been formed, it has power to bind itself without a contract under seal. But that is only in small matters necessary for the ordinary business of the corporation. . . . It is urged that there is another exception, namely, that corporations are liable when goods have been supplied or work done in pursuance of a contract entered into not under seal, and the corporation have had the full benefit of such contract. I entertain very grave doubts whether such a corporation as this could be bound on any such ground, because the parties who have a beneficial enjoyment of anything supplied on the order are not the corporation, but those for whom the corporation act as trustees. I cannot see that the principle can apply to a corporation constituted as this is, existing not for its own benefit, but as trustees for a certain portion of the public."

In *Phelps v. Upton Snodsbury Highway Board* (49 J. P. 408; W. N. (1885) 92; 1 T. L. R. 425) that ruling was followed. There the Board resolved to oppose a bill in Parliament, and instructed solicitors accordingly. Held that the purpose was not incidental to the purpose for which the Board was incorporated, and that as the solicitors had not been retained under the seal of the Board, they had no right of action against the Board for their costs.

In *Mayor of Ludlow v. Charlton* (6 M. & W. 815) an action for work done on local improvements failed because the contract for the work was not under seal.

Vendors at an auction of certain municipal tolls failed to enforce the contract against the purchasers as it was not under seal. (*Mayor of Kidderminster v. Hardwick*, L. R. 9, Ex. 13.)

In *Wandsworth District Board v. Heaver* (2 T. L. R. 130) the Board sought to recover a sum from the defendant as his share towards the purchase of a strip of land which the Board said they

**Note to
Sec. 3.**

had purchased by arrangement with the defendant to widen a road alongside which he proposed to build. The arrangement was by correspondence. Held that as it was not under seal, it could not be enforced.

In a recent case the lessee of municipal buildings offered to do certain improvements on specified terms. The offer was accepted by the Corporation, but not under seal. The lessee afterwards withdrew his proposals. Romer, J., refused specific performance of the agreement on the ground that it was not under seal. The case, he said, did not come within the exceptions to the rule, such as signature by a person authorised under seal to sign, or ratification under seal. (*Mayor of Oxford v. Crow* [1893], 3 Ch. 535.)

On the other hand, a contract not under seal was enforced in *Nicholson v. Bradfield Union* (L. R., 1 Q. B. 620; 35 L. J. Q. B. 176; 7 B. & S. 774; 14 L. T. 830), where the vendor of necessities (coals) was held entitled to recover.

Inferior officers of a corporation may be appointed without seal, but the appointment of superior officers, unless there is express power to appoint otherwise (*e.g.* by a minute of the Board), should be made under seal (*see Scott v. Clifton School Board*, 14 Q. B. D. 500). In that case Mathew, J., said that where a contract is for a purpose incidental to the performance of the duties of the corporate body, and its necessity is shown by proof that the corporation, with full knowledge of its terms and of all the facts, had acted upon and taken the benefit of its performance, an action will apparently lie upon it, although not under seal.

In *Lancaster v. Harlech Highway Board* (52 J. P. 805) L. was summoned for damage caused by extraordinary traffic, which was proved upon the certificate of the district surveyor, who was not appointed under seal, but by minute of the Board, signed by the chairman. An objection that the appointment of the surveyor, and therefore his certificate, were invalid, was overruled. Held, on appeal, that as the surveyor had acted *de facto* the objection was rightly overruled, and that the order made was valid.

¹⁴ See p. 195.

Use of
schoolroom.

4. (1) In any rural parish in which there is no suitable public room¹ vested in the parish council or in the chairman of a parish meeting and the overseers² which can be used free of charge for the purposes in this section mentioned, the parochial electors³ and the parish council shall be entitled to use, free of charge, at all reasonable times,⁸ and after reasonable notice, for the purpose of—

- (a) the parish meeting or any meeting of the parish council; or
- (b) any inquiry for parochial purposes by the Local Government Board or any other Government department or local authority; or
- (c) holding meetings convened by the chairman of the parish meeting or by the parish council, or if as to allotments in the manner prescribed by the Allotments Act, 1890,⁴ or otherwise as the Local Government Board may by rule prescribe, to dis-

cuss any question relating to allotments, under the Allotments Acts, 1887 and 1890,⁴ or under this Act; or

- (d) the candidature of any person for the district council or the parish council; or
- (e) any committee or officer appointed, either by the parish meeting or council or by a county or district council, to administer public funds within or for the purposes of the parish

any suitable⁸ room in the school-house of any public elementary school⁵ receiving a grant out of moneys provided by Parliament, and any suitable room the expense of maintaining which is payable out of any local rate:

Provided that this enactment shall not authorise the use of any room used as part of a private dwelling-house, nor authorise any interference with the school hours of an elementary day or evening school, nor, in the case of a room used for the administration of justice or police, with the hours during which it is used for these purposes.⁶

(2) If, by reason of the use of the room for any of the said purposes, any expense is incurred by the persons having control over the room, or any damage is done to the room or to the building of which the room is part or its appurtenances, or the furniture of the room, or the apparatus for instruction, the expense or damage shall be defrayed as part of the expenses⁷ of the parish meeting or parish council or inquiry as the case may be; but when the meeting is called for the purpose of the candidature of any person, such expense or damage shall be reimbursed to the parish meeting or the parish council by the persons by whom or on whose behalf the meeting is convened.

(3) If any question⁸ arises under this section as to what is reasonable or suitable, it may be determined, in the case of a school-house by the Education Department, in the case of a room used for the administration of justice or police by a Secretary of State, and in any other case by the Local Government Board.

¹ As to the use of public-houses *see* Section 61.

² If a parish has no parish council the body corporate for executive purposes in that parish consists of the chairman of the parish meeting and the overseers (Section 19 [6]).

³ For definition of parochial electors *see* Section 1 (3) and Section 44.

⁴ The Allotment Acts, 1887 and 1890, are set out in the Appendix, p. 223.

For definition of "public elementary school" *see* Section 75, p. 179.

**Note to
Sec. 4.**

⁶ Section 66 also provides that nothing in this Act shall affect the trusteeship, management, or control of any elementary school.

⁷ As to the mode of defraying expenses see Section 11 (4).

⁸ As to the determination of what is reasonable or suitable see sub-section (3). Where it is desired that the Education Department or Local Government Board shall determine a question under this section, a written application should be addressed to the secretary of the particular department concerned setting out the facts. If the decision of a Secretary of State is required the application should be addressed to the Under Secretary of State, Home Office, Whitehall, S.W.

Powers and Duties of Parish Councils and Parish Meetings.

Parish
council to
appoint
overseers.

5. (1) The power and duty of appointing overseers¹ of the poor, and the power of appointing and revoking the appointment of an assistant overseer,² for every rural parish having a parish council,³ shall be transferred⁴ to and vested in the parish council, and that council shall in each year, at their annual meeting,⁵ appoint the overseers of the parish, and shall as soon as may be fill any casual vacancy occurring in the office of overseer of the parish, and shall in either case forthwith give written notice thereof in the prescribed⁶ form to the board of guardians.

(2) As from the appointed day⁷—

- (a) the churchwardens⁸ of every rural parish shall cease to be overseers, and an additional number of overseers may be appointed to replace the churchwardens, and
- (b) references in any Act to the churchwardens and overseers shall, as respects any rural parish, except so far as those references relate to the affairs of the church,⁹ be construed as references to the overseers, and
- (c) the legal interest in all property vested either in the overseers or in the churchwardens and overseers of a rural parish, other than property connected with the affairs of the church,⁹ or held for an ecclesiastical charity,⁹ shall, if there is a parish council, vest in that council, subject to all trusts and liabilities affecting the same, and all persons concerned shall make or concur in making such transfers, if any, as are requisite for giving effect to this enactment.

¹ The following persons are exempt by statute from serving as overseers of the poor :

Members of the College of

Physicians 32 H. 8, c. 40,

Ministers, teachers, and preachers of religion	{ 1 W. and M. 1, 18, s. 8. 52 Geo. III, c. 155, s. 9.	Note to Sec. 5.
Apothecaries and surgeons in certain cases	{ 6 and 7 W. and M., c. 4, ss. 1 and 2. 18 Geo. II, c. 15, s. 10.	
Commissioners and officers of excise and inland revenue .	{ 7 and 8 Geo. IV, c. 53, s. 11. 16 and 17 Vict., c. 59, s. 17.	
Registrars of births and deaths and of marriages	1 Vict., c. 22, s. 18.	
Officers of the post office . .	1 Vict., c. 33, s. 12.	
Relieving officers and work-house masters	13 and 14 Vict., c. 101, s. 6.	
Officers of H.M.'s customs . .	16 and 17 Vict., c. 107, s. 7.	
Assistant overseers of the poor	29 and 30 Vict., c. 113, s. 10.	
Attorneys and practising barristers and justices of the peace have been held to be exempt from serving as overseers.		

Women may be overseers (*Rex v. Stubbs*, 2 T. R. 395), but it has been held improper to appoint them when other competent persons are available (*Rex v. Chardstock*, 16 Vin. Abr. 415). Probably the latter view would not be upheld at the present day.

² Provisions for the appointment of assistant overseers and the security to be taken for their due performance of their duties are made in 59 Geo. III, c. 12, s. 7; and 7 and 8 Vict., c. 101, s. 61. Note that part of the last-mentioned section is repealed: *see* Sched. II of this Act. Assistant overseers cannot serve as guardians of the poor (5 and 6 Vict., c. 57, s. 14) or as overseers of the poor (29 and 30 Vict., c. 113, s. 10).

³ As to appointment of overseers, &c., in parishes not having a parish council *see* Section 19 (5).

⁴ As to the mode of settling questions as to transfers *see* Section 70.

⁵ *See* Section 3 (7). The annual meeting must be held on or within seven days after the 15th April in each year.

⁶ Notice of the appointment of an overseer must be given to the guardians of the Poor Law Union within three weeks of the 15th April. If not given the guardians must appoint the overseer (Section 50). "Prescribed" means prescribed by the Local Government Board (Section 75, p. 180).

⁷ *See* Section 84 (4) as to the "appointed day."

⁸ By 43 Eliz., c. 2, s. 1, the churchwardens of every (civil) parish were *ex officio* overseers of that parish. But churchwardens of churches and chapels erected under the Church Building Acts in populous parishes were, by 59 Geo. III, c. 134, s. 23, exempted from holding the office of overseer.

Now churchwardens will no longer as such be overseers of their parish. It will be the duty of their parish council to elect additional overseers corresponding to the number of churchwardens who previously acted as overseers, so that in future there will be as many overseers as there were overseers and churchwardens before the passing of this Act. The parish council may elect as overseers the persons who are churchwardens, and the latter will then act by virtue of their election, and not by virtue of their being churchwardens.

⁹ For definitions of "ecclesiastical charity" and "affairs of the church" *see* Section 75, pp. 178 and 179.

Transfer of
certain
powers of
vestry and
other
authorities
to parish
council.

6. (1) Upon the parish council of a rural parish coming into office,¹ there shall be transferred² to that council—

(a) The powers, duties, and liabilities of the vestry of the parish except—

(i) so far as relates to the affairs of the church³ or to ecclesiastical charities;³ and

(ii) any power, duty, or liability transferred² by this Act from the vestry to any other authority :

(b) The powers, duties, and liabilities of the churchwardens of the parish, except so far as they relate to the affairs of the church³ or to charities,³ or are powers and duties of overseers, but inclusive of the obligations of the churchwardens with respect to maintaining and repairing closed churchyards wherever the expenses of such maintenance and repair are repayable out of the poor rate under the Burial Act, 1855 :⁴ Provided that such obligations shall not in the case of any particular parish be deemed to attach, unless or until the churchwardens subsequently to the passing of this Act shall give a certificate,⁵ as in the Burial Act, 1855, provided, in order to obtain the repayment of such expenses out of the poor rate :

(c) The powers, duties, and liabilities of the overseers or of the churchwardens and overseers of the parish with respect to—

(i) appeals or objections by them in respect of the valuation list,⁶ or appeals in respect of the poor rate,⁷ or county rate,⁸ or the basis of the county rate;⁸ and

(ii) the provision of parish books⁹ and of a vestry room or parochial office,¹⁰ parish chest, fire-engine,¹¹ fire-escape, or matters relating thereto ; and

(iii) the holding or management of parish property, not being property relating to affairs of the church³ or held for an ecclesiastical charity,³ and the holding or management of village greens,¹² or of allotments,¹³ whether for recreation grounds or for gardens or otherwise for the benefit of the inhabitants or any of them :

18 & 19 Vict.,
c. 128.

- (d) The powers exercisable with the approval of the Local Government Board by the board of guardians for the poor law union comprising the parish in respect of the sale, exchange, or letting of any parish property.¹⁴ Sec. 6.

(2) A parish council shall have the same power of making any complaint or representation as to unhealthy dwellings or obstructive buildings as is conferred on inhabitant householders by the Housing of the Working Classes Act, 1890,¹⁵ but without prejudice to the powers of such householders. 53 & 54 Vict.,
c. 70.

(3) A parish council shall have the same power of making a representation with respect to allotments, and of applying for the election of allotment managers, as is conferred on parliamentary electors by the Allotments Act, 1887,¹⁶ or the Allotments Act, 1890, but without prejudice to the powers of those electors. 50 & 51 Vict.,
c. 48.
53 & 54 Vict.,
c. 65.

(4) Where any Act constitutes any persons wardens¹⁶ for allotments, or authorises or requires the appointment or election of any wardens, committee, or managers¹⁶ for the purpose of allotments, then, after a parish council for the parish interested in such allotments comes into office, the powers and duties of the wardens, committee, or managers shall be exercised and performed by the parish council, and it shall not be necessary to make the said appointment or to hold the said election, and for the purpose of Section 16¹⁷ of the Small Holdings Act, 1892, two members of the parish council shall be substituted for allotment managers or persons appointed as allotment managers. 55 & 56 Vict.,
c. 31.

¹ The date when the parish council comes into office is fixed by Section 84 (2).

² As to the mode of settling questions as to transfers of duties, &c., see Section 70.

³ See Section 75 for definitions of the expressions "affairs of the church" and "ecclesiastical charities" (pp. 178 and 179).

⁴ Section 18 of the Burial Act, 1855, provides as follows:

"In every case in which any Order in Council has been or shall hereafter be issued for the discontinuance of burials in any churchyard or burial-ground, the Burial Board or churchwardens, as the case may be, shall maintain such churchyard or burial-ground of any parish in decent order, and also do the necessary repair of the walls and other fences thereof, and the costs and expenses shall be repaid by the overseers upon the certificate of the Burial Board or churchwardens, as the case may be, out of the rate made for the relief of the poor of the parish or place in which such churchyard is situate, unless there shall be some other fund legally chargeable with such costs and expenses."

⁵ A churchwarden ordered certain alterations to the walls of a disused burial-ground, after resolution to that effect passed by

Note to Sec. 6. the vestry. Held that he was entitled to be paid the expenses, and that a letter written by him stating the sum required was a sufficient certificate within the meaning of Section 18 of the Burial Act, 1855.—Reg. v. Islington Vestry, 25 Q. B. D. 523; 59 L. J. Q. B. 462; 63 L. T. 226; 39 W. R. 10; 54 J. P. 807.

⁶ Section 32, Union Assessment Committee Act, 1862, provides as follows:

“If the overseer or overseers of any parish in any union shall have reason to think that such parish is aggrieved by the valuation list of any parish within such union, whether it be on the ground that the rateable hereditaments comprised in the valuation list of such parish are valued at sums beyond the annual rateable value thereof, or on the ground that the rateable hereditaments comprised in the valuation list of some other parish in such union are valued at sums less than the annual rateable value thereof, it shall be lawful for such overseer or overseers, with the consent of a vestry summoned for the purpose, of considering the expediency of giving such consent, to appeal to the Quarter Sessions for the county or borough in which the greatest number of parishes belonging to the union is situate, or, in case the number of parishes in any two or more such jurisdictions is equal, to the Quarter Sessions for the county or borough having jurisdiction over the parish in which the workhouse of the union is situate, at the Sessions to be holden after the expiration of a month * after the allowance of and deposit of such valuation list as aforesaid against such valuation list of the parish which shall appear to be over-valued or under-valued; and if in any case any such overseer or overseers appeal against the valuation list of any other parish on the ground that the rateable hereditaments in such list are valued at less than the annual rateable value thereof, such overseer or overseers shall give fourteen clear † days’ notice in writing, previous to the first day of the said Quarter Sessions at which the appeal is to be made, of the intention to appeal, and the grounds thereof, to the overseers of the poor of such parish, and to the guardians of the union comprising such parish; and if any overseer or overseers of any parish appeal against the valuation list of such parish on the ground that the rateable hereditaments in such list are valued beyond the annual rateable value thereof, such overseer or overseers shall give fourteen days’ † notice in writing, previous to the Quarter Sessions at which the appeal is to be made, of the intention to appeal, and the grounds thereof, to the guardians of the union in which such parish is situate; the said Court shall be empowered to hear and determine such appeal, and either confirm such valuation list, or correct such irregularities or inaccuracies as shall be proved to exist therein as to them may appear fair and just, but no such valuation list shall upon such appeal be quashed or destroyed in regard to any other parish unless the Court deem it necessary to proceed to the making of an entire new valuation list.”

The duty imposed on overseers by this section is transferred to the parish council upon their coming into office.

⁷ By 17 Geo. II, c. 38, s. 4, persons appealing to Quarter Sessions against the poor rate are required to give notice to the church-

* “Month” means calendar month; Section 3, Interpretation Act, 1889.

† “Clear” days, *i. e.* exclusive of the day on which the notice was given, and also of the first day of the Quarter Sessions.

wardens or overseers of the parish. See also 41 Geo. III, c. 23, ss. 4—6.

⁸ See 15 and 16 Vict., c. 81, ss. 13 *et seq.*, especially s. 22; and ss. 32 and 33.

⁹ As to custody and deposit of parish books, &c., see Section 17 and note.

¹⁰ In parishes having 2000 inhabitants, where the vestry has put in force the 13 and 14 Vict., c. 57, they are empowered by s. 3 to provide a room within the parish for vestry meetings; and under 24 and 25 Vict., c. 125 (s. 1), "The overseers of any parish in England, the population whereof shall exceed 4000 persons according to the census for the time being, with the consent of the vestry, called after due notice, and with the consent of the [Local Government Board], signified by an order under their seal, may hire any room, or purchase or take upon lease, or exchange any land or building, or sell land belonging to such parish, and invest the proceeds of such sale in the purchase of other land and building, or erect a suitable building on any land acquired as aforesaid, for the purpose of an office for the transaction of the business of the parish."

¹¹ 30 and 31 Vict., c. 106, s. 29:—"If the vestry of any parish where there is no town council, local board, or other authority competent to provide the same, after due notice, shall resolve that the overseers shall provide any fire-engine, ladder, or fire-escape for general use in the parish, the overseers shall provide the same, and pay out of the poor rate the cost thereof, and of procuring a proper place wherein to keep the same, and of maintaining it, as well as any such engine, ladder, or escape acquired by the parish in any other manner for such use, in a fit state of repair, and the charges of such persons as may be necessary for the use thereof, and the cost of suitable implements and accoutrements."

By Section 44 of the Lighting and Watching Act, 1833 (3 and 4 Wm. IV, c. 90), fire-engines, &c., can be provided in parishes which have adopted that Act.* The Act is set out in the Appendix.

¹² Section 15 of the Inclosure Act, 1845, forbids the inclosure of village greens, but provides for their preservation and for fixing their boundaries; and Section 12 of the Inclosure Act, 1857, empowers churchwardens and overseers to take steps to protect village greens from nuisances, and to sell and dispose of any manure, soil, ashes, and rubbish, or other matter or thing which may unlawfully have been deposited there, the proceeds of the sale being applied in aid of the rates for the repair of the public highways in the parish.

¹³ The Allotments Acts, 1887 and 1890, are set out in the Appendix, but allotments are held under numerous other Acts, including local and general Inclosure Acts. See note to Section 14.

¹⁴ As to the sale, exchange, and letting of parish property see 5 and 6 Wm. IV, c. 69, s. 3; 5 and 6 Vict., c. 18; and 30 and 31 Vict., c. 106, s. 17; 32 and 33 Vict., c. 63, s. 5.

¹⁵ By the Housing of the Working Classes Act, 1890, s. 31, it is provided as follows:

"(1) If in any district any four or more householders living in or near to any street complain in writing to the medical officer of health of that district that any dwelling-house in

* As to the powers of the parish fire brigade to exclude a volunteer fire brigade see *Carter v. Thomas* (1893), 1 Q. B. 673.

Note to
Sec. 6.

or near that street is in a condition so dangerous or injurious to health as to be unfit for human habitation, he shall forthwith inspect the same, and transmit to the local authority the said complaint, together with his opinion thereon; and if he is of opinion that the dwelling-house is in the condition aforesaid, shall represent the same to the local authority; but the absence of any such complaint shall not excuse him from inspecting any dwelling-house, and making a representation thereon to the local authority.

“(2) If within three months after receiving the said complaint and opinion or representation of the medical officer, the local authority, not being in the administrative county of London, or not being a rural sanitary authority in any other county, declines or neglects to take any proceedings to put this part of this Act in force, the householders who signed such complaint may petition the Local Government Board for an inquiry, and the said Board after causing an inquiry to be held may order the local authority to proceed under this part of this Act, and such order shall be binding on the local authority.

¹⁶ Allotment wardens are constituted under various Inclosure Acts (*e.g.* see Section 108 of the Inclosure Act, 1845). Powers for appointing allotment managers are given by the Poor Allotments Management Act, 1873, and by Sections 6 and 9 of the Allotments Act, 1887. As to the power of making representations possessed by Parliamentary electors see Section 2 (1) of the last-mentioned Act.

The provisions of the Allotments Act, 1887 and 1890, are set out in the Appendix.

¹⁷ Section 16 of the Small Holdings Act, 1892,* is as follows:

“(1) Where a county council provide small holdings they may delegate, with or without restrictions, the powers of the county council under this Act” (*i.e.* the Small Holdings Act) “with respect to the adaptation of land for any holdings, and the sale, letting, and management of any holdings to a committee consisting of—

“The county councillor representing the electoral division in which the holdings are situate; and

“Two other members of the county council; and

“Two of the allotment managers (if any) under the Allotments Act, 1887, for the parish or area in which the holdings are situate, selected by those managers, or if there are no allotment managers, two persons appointed in manner provided by that Act for the appointment of allotment managers; or

“If the holdings are situate within the limits of a municipal borough, then, instead of the persons selected or appointed as aforesaid, two members of the borough council;

and in the construction of this Act references to the county council shall, in their application to the powers so delegated, include any such committee. Provided that a county council shall not under this section delegate any powers of making or levying a rate or of borrowing money.

* The authority having the power to provide small holdings under the Small Holdings Act, 1892, is the county council.

“(2) The Local Government Act, 1888, shall apply to any committee appointed under this section as if it were appointed under that Act.” Note to Sec. 6.

7. (1) As from the appointed day,¹ in every rural parish² the parish meeting shall, exclusively, have the power of adopting any of the following Acts, inclusive of any Acts amending the same (all which Acts are in this Act referred to as the “adoptive Acts”³); namely—

- (a) The Lighting and Watching Act, 1833 (*see Appendix, p. 320*). 3 & 4 Will. 4, c. 90.
- (b) The Baths and Washhouses Acts, 1846 to 1882 (*see Appendix, p. 237*). 9 & 10 Vict., c. 74.
45 & 46 Vict., c. 30.
- (c) The Burial Acts, 1852 to 1885 (*see Appendix, p. 251*). 15 & 16 Vict., c. 85.
- (d) The Public Improvements Act, 1860 (*see Appendix, p. 385*). 48 & 49 Vict., c. 21.
- (e) The Public Libraries Act, 1892 (*see Appendix, p. 386*). 23 & 24 Vict., c. 30.
55 & 56 Vict., c. 53.

(2) Where under any of the said Acts a particular majority is required for the adoption or abandonment of the Act, or for any matter under such Act, the like majority of the parish meeting, or, if a poll is taken, of the parochial electors, shall be required, and where under any of the said Acts the opinion of the voters is to be ascertained by voting papers, the opinion of the parochial electors shall be ascertained by a poll taken in manner provided by this Act.⁴

(3) Where under any of the said Acts the consent or approval of, or other act on the part of, the vestry of a rural parish is required in relation to any expense or rate, the parish meeting shall be substituted for the vestry, and for this purpose the expression “vestry” shall include any meeting of ratepayers or voters.

(4) Where there is power to adopt any of the adoptive Acts for a part only⁵ of a rural parish, the Act may be adopted by a parish meeting held for that part.

(5) Where the area under any existing authority acting within a rural parish in the execution of any of the adoptive Acts is co-extensive with the parish, all powers, duties, and liabilities of that authority shall, on the parish council coming into office, be transferred to that council.⁶

(6) This Act shall not alter the incidence of charge of any rate levied to defray expenses incurred under any of the adoptive Acts, and any such rate shall be made and charged as heretofore, and any property

Sec. 7. applicable to the payment of such expenses shall continue to be so applicable.

(7) When any of the adoptive Acts is adopted for the whole or part of a rural parish after the appointed day, and the parish has a parish council, the parish council shall be the authority for the execution of the Act.

(8) For the purposes of this Act the passing of a resolution to provide a burial-ground under the Burial Acts, 1852 to 1885, shall be deemed an adoption of those Acts.

¹ As to "appointed day" *see* Section 84 (4).

² As to the operation of any of these Acts in an urban district *see* Section 62.

³ The adoptive Acts are all set out in the Appendix.

⁴ As to the mode of taking a poll *see* Section 48.

⁵ As to adopting these Acts for part of a parish *see* Sections 37 and 49. For provisions respecting the Acts where on the appointed day they are in force for part of a rural parish *see* Section 53.

⁶ For further provisions as to transfer of powers under the adoptive Acts *see* Section 53: as to date of parish council coming into office *see* Section 84 (2).

Additional
powers of
parish
council.

8. (1) A parish council shall have the following additional powers,¹ namely, power—

(a) to provide or acquire buildings for public offices and for meetings and for any purposes connected with parish business or with the powers or duties of the parish council or parish meeting; and

(b) to provide or acquire land² for such buildings and for a recreation ground and for public walks; and

(c) to apply to the Board of Agriculture under Section nine of the Commons Act, 1876;³ and

(d) to exercise with respect to any recreation ground, village green, open space, or public walk, which is for the time being under their control,⁴ or to the expense of which they have contributed, such powers as may be exercised by an urban authority under Section one hundred and sixty-four of the Public Health Act, 1875,⁵ or Section forty-four of the Public Health Acts Amendment Act, 1890,⁶ in relation to recreation grounds or public walks, and Sections one hundred and eighty-three to one hundred and eighty-six of the Public Health Act, 1875,⁵ shall apply accordingly as if the parish council were a local authority within the meaning of those sections; and

39 & 40 Vict.,
c. 56.

38 & 39 Vict.,
c. 55.
53 & 54 Vict.,
c. 59.

Sec. 8.

- (e) to utilise any well, spring, or stream⁷ within their parish and provide facilities for obtaining water therefrom, but so as not to interfere with the rights of any corporation or person; and
- (f) to deal with any pond, pool, open ditch, drain, or place⁸ containing, or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudicial to health, by draining, cleansing, covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right or the sewage or drainage works of any local authority; and
- (g) to acquire by agreement any right of way,⁹ whether within their parish or an adjoining parish, the acquisition of which is beneficial to the inhabitants of the parish or any part thereof; and
- (h) to accept and hold any gifts of property, real or personal, for the benefit of the inhabitants of the parish or any part thereof; and
- (i) to execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of any of the foregoing powers, or in relation to any parish property, not being property relating to affairs of the Church¹⁰ or held for an ecclesiastical charity;¹⁰ and
- (k) to contribute towards the expense of doing any of the things above mentioned, or to agree or combine with any other parish council to do or contribute towards the expense of doing any of the things above mentioned.

(2) A parish council may let, or, with the consent of the parish meeting, sell or exchange,¹¹ any land or buildings vested in the council, but the power of letting for more than a year and the power of sale or exchange shall not be exercised, in the case of property which has been acquired at the expense of any rate, or is at the passing of this Act applied in aid of any rate, or would but for want of income be so applied, without the consent of the Local Government Board, or in any other case without such consent or approval as is required under the Charitable Trusts Acts, 1853 to 1891,¹² for the sale of charity estates, provided that the consent or approval required under those Acts shall not be required for the letting for allotments of land vested in the parish council.

(3) Nothing in this section shall derogate from any

Sec. 8. obligation of a district council with respect to the supply of water or the execution of sanitary works.¹³

(4) Notice of any application to the Board of Agriculture in relation to a common³ shall be served upon the council of every parish in which any part of the common to which the application relates is situate.

¹ In carrying out the powers conferred by this section, parish councils must have regard to the limit of expenditure imposed by Section 11.

² As to the powers to acquire land *see* Section 9.

³ Section 9 of the Commons Act, 1876, provides as follows:

"The *Inclosure Commissioners*" [now the Board of Agriculture*] "shall from time to time, upon application made by the persons interested in any common, issue in such form as they may deem expedient information and directions as to the mode in which applications for the regulation or inclosure of commons under the Inclosure Acts, 1845 to 1868, as amended by this Act are to be made to the [Board], with such explanations as they may think fit with respect to the law for the regulation and inclosure of commons, and the persons so interested may apply accordingly in manner directed by the [Board of Agriculture]."

⁴ See 6 (1) (c) (iii) and note thereon.

⁵ The sections of the Public Health Act, 1875, referred to in this section are set out in the Appendix, p. 164.

⁶ Section 44 of the Public Health Acts Amendment Act, 1890, is as follows:

"(1) An urban authority may on such days as they think fit (not exceeding twelve days in any one year, nor four consecutive days on any one occasion) close to the public any park or pleasure ground provided by them, or any part thereof, and may grant the use of the same, either gratuitously or for payment, to any public charity or institution, or for any agricultural, horticultural, or other show, or any other public purpose,† or may use the same for any such show or purpose; and the admission to the said park or pleasure ground, or such part thereof, on the days when the same shall be so closed to the public, may be either with or without payment, as directed by the urban authority, or, with the consent of the urban authority, by the society or persons to whom the use of the park or pleasure ground, or such part thereof, may be granted; provided that no such park or pleasure ground shall be closed on any Sunday or public holiday.

"(2) An urban authority may either themselves provide and let for hire, or may license any person to let for hire, any pleasure boats on any lake or piece of water in any such park or pleasure ground, and may make bye-laws for regulating the numbering and naming of such boats, the number of persons to be carried therein, the boathouses and mooring places for the same, and for fixing rates of hire and the qualifications of boatmen, and for securing their good and orderly conduct while in charge of any boat."

* The Inclosure Commissioners were absorbed by the Board of Agriculture established under 52 and 53 Vict., c. 30.

† It would seem that the local authority cannot close the recreation ground in order to let it to a football club for the day; *see* Attorney-General *v.* Loughborough Local Board, 'Times' newspaper, 31st May, 1881.

⁷ The powers of the parish council are limited by the powers possessed by any water company, or other body, having exclusive rights of providing the inhabitants of the parish with a supply of water. If no company or other body possess such exclusive rights, or if they consent to waive their rights, the parish council may, subject to the considerations as to expense indicated in Section 11, protect and deepen wells, improve the surroundings of springs, lay pipes to convey water from these, or from streams, and do other things tending to improve existing supplies in the parish. But they appear to have no power given them to bore or dig wells by way of "prospecting" for water. See also the following note.

Note to
Sec. 8.

⁸ No power is given to enter private property without consent in order to deal with these matters. Apart from the powers here given, if any ponds, pools, ditches, &c., on private property or elsewhere, are a "nuisance or injurious to health" within the meaning of Section 91 of the Public Health Act, 1875, the parish council could give information to the district council under Section 93 of that Act, and it would be the duty of the district council (under Section 94), if satisfied of the existence of a nuisance, to take the necessary action to procure its abatement.

⁹ A parish council cannot acquire otherwise than by agreement any land for the purpose of any supply of water, or any right of way (Section 9 [15]).

¹⁰ See Section 75 as to the meaning of "affairs of the Church" and "ecclesiastical charity" (pp. 178 and 179).

¹¹ See also Section 6 (1) (d) and note.

¹² The statutes comprehended in the expression "The Charitable Trusts Acts, 1853 to 1891," are the following:—16 and 17 Vict., c. 137; 18 and 19 Vict., c. 124; 23 and 24 Vict., c. 136; 25 and 26 Vict., c. 112; 32 and 33 Vict., c. 110; 50 and 51 Vict., c. 49; 54 and 55 Vict., c. 17.

¹³ The obligations of district councils with respect to water supply and sanitary works are indicated in the Public Health Acts (see Public Health Act, 1875, Section 15 as to making and maintaining sewers; Section 36 as to enforcing provision of privy accommodation for houses; Section 42 as to cleansing of streets and removal of refuse; Section 51 as to provision of water supply (see also the Public Health [Water] Act, 1878, especially Section 3); Section 92 as to inspection of district for detection of nuisances; and Sections 94 and 95 as to the steps to be taken by the local authority to procure their abatement.

Where district councils make default in exercising their powers under the Public Health Acts the parish council may complain to the county council (see Section 16, post).

9. (1) For the purpose of the acquisition of land by a parish council the Lands Clauses Acts¹ shall be incorporated with this Act, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement,² and Section one hundred and seventy-eight³ of the Public Health Act, 1875, shall apply as if the parish council were referred to therein.

Powers for
acquisition
of land.

38 & 39 Vict.,
c. 55.

(2) If a parish council are unable to acquire by agreement and on reasonable terms suitable land for any purpose for which they are authorised to acquire it

Sec. 9. they may represent the case to the county council, and the county council shall inquire into the representation.⁴

50 & 51 Vict.,
c. 48.

53 & 54 Vict.,
c. 65.

(3) If on any such representation, or on any proceeding under the Allotments Acts, 1887 and 1890,⁶ a county council are satisfied that suitable land for the said purpose of the parish council or for the purpose of allotments (as the case may be), cannot be acquired on reasonable terms by voluntary agreement, and that the circumstances are such as to justify the county council in proceeding under this section, they shall cause such public inquiry to be made in the parish, and such notice to be given both in the parish and to the owners, lessees, and occupiers of the land proposed to be taken as may be prescribed⁴, and all persons interested shall be permitted to attend at the inquiry, and to support or oppose the taking of the land.

(4) After the completion of the inquiry, and considering all objections made by any persons interested, the county council may make an order for putting in force, as respects the said land or any part thereof, the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

(5) If the county council refuse to make any such order, the parish council, or, if the proceeding is taken on the petition of the district council, then the district council, may petition the Local Government Board, and that Board after local inquiry may, if they think proper, make the order, and this section shall apply as if the order had been made by the county council. Any order made under this subsection overruling the decision of the county council shall be laid before Parliament by the Local Government Board.

(6) A copy of any order made under this section shall be served in the prescribed⁴ manner, together with a statement that the order will become final and have the effect of an Act of Parliament, unless within the prescribed⁴ period a memorial by some person interested is presented to the Local Government Board praying that the order shall not become law without further inquiry.

(7) The order shall be deposited with the Local Government Board, who shall inquire whether the provisions of this section and the prescribed⁴ regulations have been in all respects complied with; and if the Board are satisfied that this has been done, then, after the prescribed⁴ period—

(a) If no memorial has been presented, or if every

Sec. 9.

such memorial has been withdrawn, the Board shall, without further inquiry, confirm the order:

(b) If a memorial has been presented, the Local Government Board shall proceed to hold a local inquiry, and shall, after such inquiry, either confirm, with or without amendment, or disallow the order:

(c) Upon any such confirmation the order, and if amended, as so amended, shall become final and have the effect of an Act of Parliament, and the confirmation by the Local Government Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made, and is within the powers of this Act.

(8) Sections two hundred and ninety-three to two hundred and ninety-six, and subsections (1) and (2) of Section two hundred and ninety-seven of the Public Health Act, 1875,³ shall apply to a local inquiry held by the Local Government Board for the purposes of this section, as if those sections and subsections were herein re-enacted, and in terms made applicable to such inquiry.⁹

(9) The order shall be carried into effect, when made on the petition of a district council, by that council, and in any other case by the county council.

(10) Any order made under this section for the purpose of the purchase of land otherwise than by agreement shall incorporate the Lands Clauses Acts and Sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, with the necessary adaptations, but any question of disputed compensation shall be dealt with in the manner provided by Section three of the Allotments Act, 1887,⁶ and provisoes (a), (b), and (c) of subsection (4) of that section are incorporated with this section and shall apply accordingly: Provided that in determining the amount of disputed compensation, the arbitrator shall not make any additional allowance in respect of the purchase being compulsory.

<sup>8 & 9 Vict.,
c. 20.</sup>

(11) At any inquiry or arbitration held under this section the person or persons holding the inquiry or arbitration shall hear any authorities or parties interested by themselves or their agents, and shall hear witnesses, but shall not, except in such cases as may be prescribed,⁴ hear counsel or expert witnesses.

(12) The person or persons holding a public inquiry for the purposes of this section on behalf of a county

Sec. 9. council shall have the same powers as an inspector or inspectors of the Local Government Board when holding a local inquiry;⁷ and Section two hundred and ninety-four of the Public Health Act, 1875,³ shall apply to the costs of inquiries held by the county council for the purpose of this section as if the county council were substituted for the Local Government Board.

(13) Subsection (2) of Section two, if the land is taken for allotments, and, whether it is or is not so taken, subsections (5), (6), (7), and (8) of Section three of the Allotments Act, 1887, and Section eleven of that Act, and Section three⁶ of the Allotments Act, 1890, are incorporated with this section, and shall, with the prescribed⁴ adaptations, apply accordingly.

50 & 51 Vict.,
c. 48.
53 & 54 Vict.,
c. 65.

(14) Where the land is acquired otherwise than for allotments, it shall be assured to the parish council; and any land purchased by a county council for allotments under the Allotments Acts, 1887 and 1890,⁶ and this Act, or any of them, shall be assured to the parish council, and in that case Sections five to eight of the Allotments Act, 1887,⁶ shall apply as if the parish council were the sanitary authority.

(15) Nothing in this section shall authorise the parish council to acquire otherwise than by agreement any land for the purpose of any supply of water, or of any right of way.

(16) In this section the expression "allotments" includes common pasture where authorised to be acquired under the Allotments Act, 1887.⁸

(17) Where, under the Allotments Act, 1890,⁶ the Allotments Act, 1887, applies to the purchase of land by the county council, that Act shall apply as amended by this section, and the parish council shall have the like power of petitioning the county council as is given to six parliamentary electors by section two of the Allotments Act, 1890.

(18) This section shall apply to a county borough with the necessary modifications, and in particular with the modification that the order shall be both made and confirmed by the Local Government Board and shall be carried into effect by the council of the county borough.

(19) The expenses of a county council incurred under this section shall be defrayed in like manner as in the case of a local inquiry by a county council under this Act.¹⁰

¹ The Lands Clauses Act are 8 and 9 Vict., c. 18; 23 and 24 Vict., c. 106; 32 and 33 Vict., c. 18; 46 and 47 Vict., c. 15. The

effect of incorporating these Acts is without any other enactment to confer a right to compensation upon persons injuriously affected by the taking of lands. *Reg. v. St. Luke's, Chelsea*, 7 L. R. Q. B., 148; 41 L. J. Q. B., 81; 25 L. T., 914; 20 W. R., 209. *See also Simpson v. South Staffs. Waterworks Co.*, 4 De G. J. and S., 679; 24 L. J. Ch., 380.

Note to
Sec. 9.

² This excludes Sections 16 to 68 of the Lands Clauses Act, 1845. *See Ferrar v. Commissioners of Sewers*, L. R. 4 Ex., 227; 38 L. J. Ex., 102; 21 L. T., 295; 17 W. R., 709. *Baker v. St. Marylebone*, 24 W. R., 848; 35 L. T., 129. *Dungey v. London*, 38 L. J. C. P., 298; 20 L. T., 921; 17 W. R., 1106. *Broadbent v. Imperial Gas Co.*, 7 De G. M. and G.; 26 L. J. Ch., 276.

³ The sections of the Public Health Act, 1875, referred to in the above section will be found in the Appendix, *see* p. 366. Section 178 is specially referred to, but is not this a misprint for Section 176?

⁴ "Prescribed" means prescribed by the Local Government Board. The regulations of that Board, so far as at present issued, will be found in the Appendix.

⁵ It will be observed that a parish council cannot themselves acquire land compulsorily. If they fail to obtain it by agreement, they must secure the aid of the county council in order to get it compulsorily. If the county council refuse their order for acquiring the land, the parish council may appeal from their decision to the Local Government Board.

Great care must be taken at each step to follow out minutely all the requirements of this section, and of the regulations of the Local Government Board.

When the order for compulsory acquisition has been made by the county council and confirmed by the Local Government Board (or if the county council refuse, then when the Local Government Board have themselves made the order) the order will be carried out by the county council, unless it is made on the petition of a district council, in which case the district council will have the carriage of it. Land acquired in this way for a parish council will be conveyed to that council, who will then become the legal owners.

⁶ The Allotments Acts, 1887 and 1890, are printed in the Appendix, p. 223.

⁷ As to the room in which such inquiry may be held *see* Section 4.

⁸ As to common pasture *see* Section 12 of the Allotments Act, 1887.

⁹ As to expenses of inquiries held by the Local Government Board *see* Section 72.

¹⁰ As to the expenses of local inquiry by a county council *see* Section 72 (4).

10. (1) The parish council shall have power to hire land for allotments, and if they are satisfied that allotments are required, and are unable to hire by agreement on reasonable terms suitable land for allotments, they shall represent the case to the county council, and the county council may make an order authorising the parish council to hire compulsorily for allotments, for a period not less than fourteen years nor more than thirty-

Hiring of
land for
allotments.

Sec. 10. five years, such land in or near¹ the parish as is specified in the order, and the order shall, as respects confirmation and otherwise, be subject to the like provisions as if it were an order of the county council made under the last preceding section of this Act, and that section shall apply as if it were herein re-enacted with the substitution of "hiring" for "purchase" and with the other necessary modifications.²

(2) A single arbitrator, who shall be appointed in accordance with the provisions of Section three of the Allotments Act, 1887,³ and to whom the provisions of that section shall apply, shall have power to determine any question—

- (a) as to the terms and conditions of the hiring; or
- (b) as to the amount of compensation for severance; or
- (c) as to the compensation to any tenant upon the determination of his tenancy; or
- (d) as to the apportionment of the rent between the land taken by the parish council and the land not taken from the tenant; or
- (e) as to any other matter incidental to the hiring of the land by the council, or the surrender thereof at the end of their tenancy;

but the arbitrator in fixing the rent shall not make any addition in respect of compulsory hiring.

(3) The arbitrator, in fixing rent or other compensation, shall take into consideration all the circumstances connected with the land, and the use to which it might otherwise be put by the owner during the term of hiring, and any depreciation of the value to the tenant of the residue of his holding caused by the withdrawal from the holding of the land hired by the parish council.

(4) Any compensation awarded to a tenant in respect of any depreciation of the value to him of the residue of his holding caused by the withdrawal from the holding of the land hired by the parish council shall as far as possible be provided for by taking such compensation into account in fixing, as the case may require, the rent to be paid by the parish council for the land hired by them, and the apportioned rent, if any, to be paid by the tenant for that portion of the holding which is not hired by the parish council.

(5) The award of the arbitrator or a copy thereof, together with a report signed by him as to the condition of the land taken by the parish council, shall be deposited and preserved with the public books, writings,

and papers of the parish,⁴ and the owner for the time being of the land shall at all reasonable times be at liberty to inspect the same and to take copies thereof. Sec. 10.

(6) Save as hereinafter mentioned, Sections five to eight of the Allotments Act, 1887,³ shall apply to any allotment hired by a parish council in like manner as if that council were the sanitary authority and also the allotment managers:

Provided that the parish council—

- (a) may let to one person an allotment or allotments exceeding one acre, but, if the land is hired compulsorily, not exceeding in the whole four acres of pasture or one acre of arable and three acres of pasture; and
- (b) may permit to be erected on the allotment any stable, cowhouse, or barn; and
- (c) shall not break up, or permit to be broken up, any permanent pasture, without the assent in writing of the landlords.⁵

(7) On the determination of any tenancy created by compulsory hiring a single arbitrator who shall be appointed in accordance with the provisions of Section three of the Allotments Act, 1887,³ shall have power to determine as to the amount due by the landlord for compensation for improvements, or by the parish council for depreciation, but such compensation shall be assessed in accordance with the provisions of the Agricultural Holdings (England) Act, 1883.⁶

46 & 47 Vict.,
c. 61.

(8) The order for compulsory hiring may apply, with the prescribed adaptations, such of the provisions of the Lands Clauses Acts (including those relating to the acquisition of land otherwise than by agreement) as appear to the county council or Local Government Board sufficient for carrying into effect the order, and for the protection of the persons interested in the land and of the parish council.

(9) Nothing in this section shall authorise the compulsory hiring of any mines or minerals,⁷ or confer any right to take, sell, or carry away any gravel, sand, or clay, or authorise the hiring of any land which is already owned or occupied as a small holding within the meaning of the Small Holdings Act, 1892.

55 & 56 Vict.,
c. 31.

(10) If the land hired under this section shall at any time during the tenancy thereof by the parish council be shown to the satisfaction of the county council to be required by the landlord for the purpose of working and getting the mines, minerals, or surface minerals thereunder, or for any road or work to be

Sec. 10. used in connexion with such working or getting, it shall be lawful for the landlord of such land to resume possession thereof upon giving to the parish council twelve calendar months previous notice in writing of his intention so to do, and upon such resumption the landlord shall pay to the parish council and to the allotment holders of the land for the time being such sum by way of compensation for the loss of such land for the purposes of allotments as may be agreed upon by the landlord and the parish council, or in default of such agreement as may be awarded by a single arbitrator to be appointed in accordance with the provisions of Section three of the Allotments Act, 1887,³ and the provisions of that section shall apply to such arbitrator.

The word "landlord" in this subsection means the person for the time being entitled to receive the rent of the land hired by the parish council.

(11) The Local Government Board shall annually lay before Parliament a report of any proceedings under this and the preceding section.

¹ Note that it is not necessary for the hired land to be *in* the parish; it may be either "in or near" the parish.

² Where a parish council wishing to hire land are unable to obtain it by agreement, they must, if they desire to hire it compulsorily, obtain the aid of the county council, and the county council and the Local Government Board must take precisely the same action as is laid down in the last section in regard to acquiring land compulsorily.

³ The Allotments Acts, 1887 and 1890, are set out in the Appendix, p. 223.

⁴ As to place of deposit of the parish documents *see* Section 17 (7).

⁵ As to the meaning of "landlord" *see* the second paragraph of sub-section (10) of this section.

⁶ The provisions of the Agricultural Holdings Act, 1883, which relate to the assessment of compensation are set out in the Appendix. Claim for compensation by a tenant under the Agricultural Holdings Act, 1883, if disputed, must be referred to arbitration only, and cannot form the subject matter of a counter-claim in an action for rent brought by the landlord in the High Court. (*Gaslight and Coke Company v. Holloway*, 52 L. T., 434; 49 J. P., 344.)

⁷ Minerals *prima facie* include not merely such articles as coal and ironstone and freestone, but fire-clay and china-clay or porcelain clay, and also every kind of stone, flint, marble, slate, brick earth, chalk, gravel, and sand, provided only that these articles are under the surface, and do not lie loosely upon it. And in this respect it is immaterial that the article in question is usually worked, or can only be profitably worked, by open quarrying. Coprolites also have been held to be minerals (*see* MacSwiney on Mines, p. 12, and authorities there cited).

Restrictions
on expendi-
ture.

11. (1) A parish council shall not, without the consent of a parish meeting, incur expenses or liabilities

which will involve a rate exceeding threepence in the pound¹ for any local financial year, or which will involve a loan.² Sec. 11.

(2) A parish council shall not, without the approval of the county council, incur any expense or liability which will involve a loan.²

(3) The sum raised in any local financial year by a parish council for their expenses (other than expenses under the adoptive Acts) shall not exceed a sum equal to a rate of sixpence in the pound¹ on the rateable value of the parish at the commencement of the year, and for the purpose of this enactment the expression "expenses" includes any annual charge, whether of principal or interest, in respect of any loan.

(4) Subject to the provisions of this Act, the expenses³ of a parish council and of a parish meeting, including the expenses of any poll, shall be paid out of the poor rate; and where there is a parish council that council shall pay the said expenses of the parish meeting of the parish; and the parish council, and where there is no parish council the chairman of the parish meeting, shall, for the purpose of obtaining payment of such expenses, have the same powers as a board of guardians have for the purpose of obtaining contributions to their common fund.⁴

(5) The demand note for any rate levied for defraying the expenses of a parish council or a parish meeting, together with other expenses, shall state in the prescribed⁵ form the proportion of the rate levied for the expenses of the council or meeting, and the proportion (if any) levied for the purpose of any of the adoptive Acts.

¹ This appears to mean that a parish council may incur expenses involving a rate of 3d. in the £ without getting the sanction of the parish meeting; that with the sanction of that meeting it may incur expenses involving a rate of 6d. in the £; but that in no case, except as mentioned in Sections 7, 82 (2) and 86, can it raise for expenses a greater sum than is represented by a rate of 6d. in the £. Rates for expenses under the adoptive Acts (*see* Section 7) or any of them, may, however, be raised over and above these respective amounts. As to the amount of the rate leviable in parishes having no parish council *see* Section 19 (9).

² If the parish council desire to raise a loan it must get the consent of the parish meeting, the county council, and the Local Government Board (*see* Section 12 [1]).

³ As to taking a poll *see* Section 48. The expenses of an election are regulated by Section 48 (7). Provision is made in Section 58 for audit of the accounts of parish councils and parish meetings.

⁴ By 4 and 5 Wm. IV, c. 76, s. 28, provision is made for establishing a common fund for every union and settling the proportions in which each parish is to contribute to it.

By 2 and 3 Vict., c. 84, s. 1: "In every case in which any

**Note to
Sec. 11.**

contribution by overseers or other officers of any parish of moneys required by the board of guardians or persons acting as guardians for such parish or for any union which shall include such parish, for the performance of their duties shall be in arrear, it shall be lawful for any two justices acting within the district wherein such parish shall be situate, on application under the hand of the chairman or acting chairman of such board, to summon the said overseer or other officers to show cause, at a special sessions to be summoned for the purpose, why such contribution has not been paid, and after hearing the complaint preferred under the authority of such chairman or acting chairman, and on behalf of such board, if the justices at such sessions shall think fit, by warrant under their hands and seals, to cause the amount of the contribution so in arrear, together with the costs occasioned by such arrear, to be levied and recovered from the said overseers or other officers, or any of them, in like manner as monies assessed for the relief of the poor may be levied or recovered" (*see below*), "and the amount of such arrear, together with the costs as aforesaid when levied and recovered, to be paid to the said board: provided always that no distress made under any such warrant of justices shall be replevisable."

By 12 and 13 Vict., c. 103, s. 7: "Where the guardians of any union or parish shall make any order for the payment of money upon overseers or other officers of any parish upon whom they are empowered by law to make it, and a copy of such order shall be served upon any one of such overseers or other officers, it shall be lawful for the said guardians to enforce such order against the person so served as fully and as effectually as if a copy thereof had been also served upon every one of such overseers or other officers."

⁵ "Prescribed" means prescribed by the Local Government Board.

Borrowing
by parish
council.

12. (1) A parish council for any of the following purposes, that is to say—

(a) for purchasing any land, or building any buildings, which the council are authorised¹ to purchase or build; and

(b) for any purpose for which the council are authorised to borrow under any of the adoptive Acts;² and

(c) for any permanent work or other thing which the council are authorised to execute or do, and the cost of which ought, in the opinion of the county council and the Local Government Board, to be spread over a term of years;

may, with the consent of the county council and the Local Government Board,³ borrow money in like manner and subject to the like conditions as a local authority may borrow for defraying expenses incurred in the execution of the Public Health Acts, and Sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine of the Public Health Act, 1875,⁴ shall

apply accordingly, except that the money shall be borrowed on the security of the poor rate and of the whole or part of the revenues of the parish council, and except that as respects the limit of the sum to be borrowed, one half of the assessable value shall be substituted for the assessable value for two years. Sec. 12.

(2) A county council may lend⁵ to a parish council any money which the parish council are authorised to borrow, and may, if necessary, without the sanction of the Local Government Board,⁶ and irrespectively of any limit of borrowing, raise the money by loan, subject to the like conditions and in the like manner as any other loan for the execution of their duties, and subject to any further conditions which the Local Government Board may by general or special order impose.⁷

(3.) A parish council shall not borrow for the purposes of any of the adoptive Acts otherwise than in accordance with this Act, but the charge for the purpose of any of the adoptive Acts shall ultimately be on the rate applicable to the purposes of that Act.⁸

¹ See Section 8 (1).

² See Section 7 as to the adoptive Acts.

³ Observe that to enable them to borrow money the parish council must get the consent of both the county council and the Local Government Board. Prior to applying for such consent the consent of the parish meeting must be obtained (Section 11 [1]).

⁴ The sections of the Public Health Act, 1875, here referred to are set out in the Appendix, p. 374.

⁵ In most cases a county council would be able to give better security for repayment than a parish council, and would therefore be likely to obtain loans on lower terms than they could. There will therefore be advantage to the parish council if they borrow from the county council instead of going directly to insurance companies or other societies or persons to procure the money.

⁶ Although the county or district council may lend to a parish council without the sanction of the Local Government Board, it is not to be inferred that the Board's sanction is not required to the loan in the first instance. The parish council must first get the sanction of the parish meeting, then that of the county council, than that of the Local Government Board. These sanctions being obtained, the district or county council may raise the money by loan and lend it to the parish council without in their case getting any further sanction from the Local Government Board.

⁷ It is the practice of the Local Government Board to require borrowing authorities to supply them with detailed particulars as to the manner in which it is proposed to expend the loans which the Board are asked to sanction, and they carefully satisfy themselves that the works which they sanction are expedient and that the estimates for executing works are not excessive. With the view of obtaining full information on these points, and of affording all persons interested an opportunity of being heard on the subject, the Board, in the great majority of the applications for permission

Note to Sec. 12. to borrow money, cause local inquiries to be held by their inspectors after public notice in the districts. Before granting their sanction they also require the authorities to inform them of the arrangements made for the due discharge of the debt. Among the conditions on which powers of borrowing are given, the Board regard as one of the most important that which requires annual provision to be made for the repayment of each loan within a prescribed term, either by instalments or by means of a sinking fund. Strict compliance with the conditions of borrowing is insisted upon.

⁸ The adoptive Acts are specified in Section 7. Whenever money is borrowed by a parish council for the purposes of any of those Acts, the requirements of Sections 11 and 12 of the Local Government Act, 1894, must be complied with. The money will be borrowed on the same security as loans raised for other purposes under this Act, but the principal and interest will be paid out of the fund raised by rate under the particular Act or Acts adopted.

Footpaths
and roads.

13. (1) The consent of the parish council and of the district council¹ shall be required for the stopping,² in whole or in part, or diversion, of a public right of way³ within a rural parish, and the consent of the parish council shall be required for a declaration that a highway in a rural parish is unnecessary for public use and not repairable at the public expense, and the parish council shall give public notice⁴ of a resolution to give any such consent, and the resolution shall not operate—

(a) unless it is confirmed by the parish council at a meeting held not less than two months⁵ after the public notice is given; nor

(b) if a parish meeting held before the confirmation resolve that the consent ought not to be given.⁶

(2) A parish council may, subject to the provisions of this Act with respect to restrictions on expenditure,⁷ undertake the repair and maintenance of all or any of the public footpaths within their parish, not being footpaths at the side of a public road, but this power shall not nor shall the exercise thereof relieve any other authority or person from any liability with respect to such repair or maintenance.⁸

¹ As to the "district council" *see* Section 21; as to their duty in regard to rights of way, &c., *see* Section 26.

² For particulars of the procedure to be adopted for stopping or diverting a highway, or for declaring that a highway is unnecessary for public use, *see* Highway Act, 1835, Sections 84 to 93, and the Schedule thereto, form No. 19; Highway Act, 1862, Section 44; Highway Act, 1864, Section 21; and Highway, &c., Act, 1878, Section 24. As to the notices necessary to be put up where a highway is to be stopped *see* Reg. v. Surrey J.J. ('Solicitor's Journal,' 7th May, 1892).

³ From long-continued use of a way by the public, whether the land be public or private, a dedication from the Crown (or a private owner, as the case may be) will, in the absence of anything to rebut

the presumption, be presumed. *Turner v. Walsh* (L. R. 6 App. C., 636; 50 L. J. P. C., 55; 45 L. T. n.s., 50).

⁴ As to the mode of giving public notices, *see* Section 51.

⁵ This must be two calendar months (Interpretation Act, 1889, Section 3).

⁶ Subsection (b) specifies a mode by which the power of the parish council to give consent may be superseded; *see* also Section 26.

⁷ For restrictions on expenditure *see* Section 11.

⁸ The question who is liable to repair any public footpath will depend on the circumstances of the particular case. The liability may attach to persons or corporations by prescription, *ratione tenuræ*, by virtue of the inclosure of lands, or by statute. When this Act comes into operation highways generally in rural districts, except main roads, will pass under the control of the district council (*see* Section 25), but this will not affect the liability of persons upon whom the duty to repair is already incumbent (*see* Section 25 [2]).

14. (1) Where trustees hold any property for the purposes of a public recreation ground or of public meetings, or of allotments, whether under Inclosure Acts¹ or otherwise, for the benefit of the inhabitants of a rural parish,² or any of them, or for any public purpose³ connected with a rural parish, except for an ecclesiastical charity,⁴ they may, with the approval of the Charity Commissioners, transfer⁵ the property to the parish council of the parish, or to persons appointed by that council, and the parish council, if they accept the transfer, or their appointees, shall hold the property on the trusts and subject to the conditions on which the trustees held the same.

Public
property and
charities.

(2) Where overseers of a rural parish as such are, either alone or jointly with any other persons, trustees of any parochial charity,⁴ such number of the councillors of the parish or other persons, not exceeding the number of the overseer trustees, as the council may appoint, shall be trustees in their place, and, when the charity is not an ecclesiastical charity,⁴ this enactment shall apply as if the churchwardens as such were specified therein as well as the overseers.⁶

(3) Where the governing body of a parochial charity⁴ other than an ecclesiastical charity⁴ does not include any persons elected by the ratepayers or parochial electors⁷ or inhabitants of the parish, or appointed by the parish council or parish meeting, the parish council may appoint additional members of that governing body not exceeding the number allowed by the Charity Commissioners in each case; and if the management of any such charity is vested in a sole trustee, the number of trustees may, with the approval of the Charity

Sec. 14. Commissioners, be increased to three, one of whom may be nominated by such sole trustee and one by the parish council or parish meeting. Nothing in this subsection shall prejudicially affect the power or authority of the Charity Commissioners, under any of the Acts relating to charities, to settle or alter schemes for the better administration of any charity.

(4) Where the vestry of a rural parish are entitled, under the trusts of a charity other than an ecclesiastical charity,⁴ to appoint any trustees or beneficiaries of the charity, the appointment shall be made by the parish council of the parish, or in the case of beneficiaries, by persons appointed by the parish council.⁸

(5) The draft of every scheme relating to a charity, not being an ecclesiastical charity,⁴ which affects a rural parish, shall, on or before the publication of the notice of the proposal to make an order for such scheme in accordance with Section six of the Charitable Trusts Act, 1860,⁹ be communicated to the council of the parish, and where there is no parish council to the chairman of the parish meeting, and, in the case of a council, the council may, subject to the provisions of this Act with respect to restrictions on expenditure,¹⁰ and to the consent of the parish meeting, either support or oppose the scheme, and shall for that purpose have the same right as any inhabitants¹³ of a place directly affected by the scheme.

(6) The accounts of all parochial charities,⁴ not being ecclesiastical charities,⁴ shall annually be laid before the parish meeting of any parish affected thereby, and the Charitable Trusts Amendment Act, 1855, shall apply with the substitution in Section forty-four¹² of the parish meeting for the vestry, and of the chairman of the parish meeting for the churchwardens, and the names of the beneficiaries of dole charities shall be published annually in such form as the parish council, or where there is no parish council the parish meeting, think fit.

(7) The term of office of a trustee appointed under this section shall be four years, but of the trustees first appointed as aforesaid one half, as nearly as may be, to be determined by lot, shall go out of office at the end of two years from the date of their appointment, but shall be eligible for re-appointment.

(8) The provisions of this section with respect to the appointment of trustees, except so far as the appointment is transferred from the vestry,¹⁴ shall not apply to any charity until the expiration of forty years

23 & 24 Vict.,
c. 136.

18 & 19 Vict.,
c. 124.

from the date of the foundation thereof, or, in the case of a charity founded before the passing of this Act by a donor or by several donors any one of whom is living at the passing of this Act, until the expiration of forty years from the passing of this Act, unless with the consent of the surviving donor or donors. Sec. 14.

(9) Whilst a person is trustee of a parochial charity⁴ he shall not, nor shall his wife or any of his children, receive any benefit from the charity.

¹ The following Acts are comprehended in the expression "The Inclosure Acts, 1845 to 1892:"—8 and 9 Vict., c. 118; 9 and 10 Vict., c. 70; 10 and 11 Vict., c. 111; 11 and 12 Vict., c. 99; 12 and 13 Vict., c. 83; 14 and 15 Vict., c. 53; 15 and 16 Vict., c. 79; 17 and 18 Vict., c. 97; 20 and 21 Vict., c. 31; 31 and 32 Vict., c. 89; 39 and 40 Vict., c. 56; 41 and 42 Vict., c. 56; 42 and 43 Vict., c. 37; 45 and 46 Vict., c. 15; and 22 and 23 Vict., c. 43.

A list of the Acts authorising the inclosure of lands in various specified parishes, pursuant to reports of the Inclosure Commissioners for England and Wales, is printed in Appendix (8), p. 1316, to the chronological table and index to the Statutes, published in 1893 by Eyre and Spottiswoode. There are upwards of a thousand of such Acts.

² For definition of rural parish *see* Section 1 (2).

The provisions of this section may be made applicable to London, to county and municipal boroughs, and to urban districts (*see* Section 33).

³ It is provided in Section 66 that nothing in this Act shall affect the trusteeship, management, or control of any elementary school.

⁴ For definitions of "ecclesiastical charity" and "parochial charity" *see* Section 75, pp. 178 and 179.

⁵ Where property is transferred to the parish council by trustees under this section the transfer should be effected by a deed. Any question as to transfer may be settled as provided in Section 70.

⁶ Subject to the provisions of subsection (8) of this section the effect of subsection (2) is to deprive all overseers of the trusteeship of every kind of parochial charity of which they, in their capacity of overseers, were trustees; and also to deprive churchwardens of all their trusteeships except those which relate to ecclesiastical charities. There is nothing, however, to prevent the parish council from appointing to the office of trustee the person who for the time being also holds the office of overseer or churchwarden.

⁷ For definition of parochial electors *see* Sections 2 (1), 44, and 75.

⁸ In the cases mentioned in subsection (4) the trustees of the charity can only be appointed by the parish council, but the persons who are to benefit by the charity may be specified either by the parish council itself or by other persons who are appointed for the purpose by the parish council.

⁹ Section 6 of the Charitable Trusts Act, 1860, enacts as follows:

"No order appointing or removing a trustee, or establishing a scheme for the administration of any charity, shall be made by the said Board* before the expiration of one calendar month after

* *I.e.* Board of Charity Commissioners.

**Note to
Sec. 14.**

public notice of the proposal to make such order shall have been given, as they may consider most expedient and effectual for ensuring the publicity thereof, in each parish or district in which the charity, if of a local character, shall be applicable, or among all persons interested therein; and no order removing a trustee or schoolmaster or mistress or other officer of a charity who shall have any known place of residence in Great Britain or Ireland, and who shall not be consenting to be discharged, shall be made before the expiration of one calendar month after notice of the proposal to make such order shall have also been delivered to him or her, or sent by the post or otherwise to such his or her place of residence, and until after sufficient hearing of the matter before the said Board, or some member thereof, or one of their (inspectors);* and every notice hereby required shall contain (so far as conveniently may be) sufficient particulars of the objects of the proposed order, and shall prescribe a reasonable time within which any objections thereto or suggestions thereon may be made or transmitted to the Board; and the said Board shall receive and consider all such objections and suggestions, and may withhold, suspend, or modify their proposed order, as they shall thereupon, or in the result of further inquiry, or otherwise, think expedient."

¹⁰ See Section 11 as to restrictions on expenditure.

¹¹ By Section 8 Charitable Trusts Act, 1860, any two inhabitants of any parish or district in which the same shall be specially applicable, may, within three calendar months next after the definitive publication† of any order of the said Board appointing or removing a trustee or trustees, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate, or establishing a scheme for the administration of the charity, present a petition to the High Court of Chancery‡ in a summary way, appealing against such order, and praying such relief as the case may require.

It would appear from the judgment of Turner, L. J., in *re Hackney Charities* (4 De G. J. and S., on pp. 593-4) that the right of two inhabitants to appeal under Section 8 of the Charitable Trusts Act, 1860, is limited to cases where the gross yearly income of the charity exceeds £50.

¹² Section 44 of the Charitable Trusts Amendment Act, 1855, enacts as follows:

"The trustees or administrators of every charity shall, on or before the 25th March, 1856, prepare and make out and transmit to the Board§ an account of the endowments then belonging to the charity, showing in the case of realty not in hand the manner in which the same is let or occupied, and in the case of personalty the existing investment or employment thereof, and in what names such investments are made; and such trustees or administrators shall also on or before the 25th March next after the acquisition of any endowment not included in the foregoing account prepare and make out, in like manner, and transmit to the Board, a similar account of such last-mentioned endowment, and in case of any alienation, or charge, or transfer of any real or personal estate of the charity, shall on or before the 25th March then next following

* Now assistant commissioners (Charitable Trusts Act, 1887 [Section 2]).

† As to "definitive publication" see *re Hackney Charities*, 12 W. R. 1131, *per* Romilly, M. R.

‡ Now Chancery Division of the High Court of Justice.

§ *I. e.* the Board of Charity Commissioners.

transmit to the Board an account of such alienation, charge, or transfer, and such trustees or administrators shall also, on or before the 25th March in every year, or such other day as may be fixed by the Board, or as may have been already fixed for rendering the accounts thereof required by the principal Act, prepare and make out the following accounts in relation thereto (that is to say):

Note to
Sec. 14.

- “(1) An account of the gross income arising from the endowment, or which ought to have arisen therefrom during the year ending on the 31st December then last, or on such other day as may have been appointed for this purpose by the Board.
- “(2) An account of all balances in hand at the commencement of the year, and of all moneys received during the same year on account of the charity.
- “(3) An account for the same period of all payments.
- “(4) An account of all monies owing to or from the charity, so far as conveniently may be; which accounts shall be certified under the hand of one or more of the said trustees or administrators, and shall be audited by the auditor of the charity, if any; and the said trustees or administrators shall, within fourteen days after the day appointed for making out such accounts, deliver or transmit a copy thereof to the Commissioners at their office in London, and in the case of parochial charities shall deliver another copy thereof to the [churchwardens] of the parish or parishes with which the objects of such charities are identified, who shall present the same at the next general meeting of the [vestry] of such parishes, and insert a copy thereof in the minutes of the [vestry] book; and every such copy shall be open to the inspection of all persons at all reasonable hours, subject to such regulations as to the said Board may seem fit; and any person may require a copy of every such account, or of any part thereof, on paying therefor after the rate of 2d. for every seventy-two words or figures.”

The accounts of trustees are required to be made in the form directed by the Charity Commissioners, who will supply a copy on application being made to them.

¹³ *I. e.* in pursuance of Section 4 of this section.

15. A rural district council may delegate¹ to a parish council any power which may be delegated to a parochial committee under the Public Health Acts,² and thereupon those Acts shall apply as if the parish council were a parochial committee, and where such district council appoint a parochial committee consisting partly of members of the district council and partly of other persons, those other persons shall, where there is a parish council, be or be selected from the members of the parish council.

Delegated
powers of
parish
councils.

¹ “Delegation does not imply a denudation of power and authority. . . . The word “delegation” implies that powers are committed to another person or body which are as a rule always subject to resumption by the power delegating. . . . Unless, therefore, it is controlled by statute, the delegating power can at any time resume

**Note to
Sec. 15.**

its authority." *Per* Lord Coleridge, C. J., *Huth v. Clarke* (1890), L. R. 25 Q. B. D., on p. 394; 59 L. J. M. C. 120; 62 L. T. 348; 55 J. P. 86.

² The provisions enabling a district council to delegate powers to a parochial committee under the Public Health Acts are contained in Section 202 of the Public Health Act, 1875 (*see* Appendix, p. 367).

Complaint
by parish
council of
default of
district
council.

38 & 39 Vict.,
c. 55.

16. (1) Where a parish council resolve that a rural district council ought to have provided the parish with sufficient sewers, or to have maintained existing sewers,¹ or to have provided the parish with a supply of water,² in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost,³ or to have enforced with regard to the parish any provisions of the Public Health Acts which it is their duty to enforce,⁴ and have failed so to do, or that they have failed to maintain and repair any highway⁵ in a good and substantial manner, the parish council may complain to the county council,⁶ and the county council, if satisfied after due inquiry that the district council have so failed as respects the subject matter of the complaint, may resolve that the duties and powers of the district council for the purpose of the matter complained of shall be transferred to the county council, and they shall be transferred accordingly.⁷

(2) Upon any complaint under this section the county council may, instead of resolving that the duties and powers of the rural district council be transferred to them, make such an order as is mentioned in Section two hundred and ninety-nine of the Public Health Act, 1875,⁸ and may appoint a person to perform the duty mentioned in the order, and upon such appointment Sections two hundred and ninety-nine to three hundred and two of the Public Health Act, 1875, shall apply with the substitution of the county council for the Local Government Board.

(3) Where a rural district council have determined to adopt plans for the sewerage or water supply of any contributory place⁹ within the district, they shall give notice¹⁰ thereof to the parish council of any parish for which the works are to be provided before any contract is entered into by them for the execution of the works.

¹ Section 16, Public Health Act, 1875, provides that "every local authority shall keep in repair all sewers belonging to them, and shall cause to be made such sewers as may be necessary for effectually draining their district" for the purposes of that Act.

² For provisions as to the duty of rural authorities to provide a supply of water *see* Section 3 Public Health (Water) Act, 1878; *see* also Sections 51 to 65 of the Public Health Act, 1875.

³ "Reasonable cost" under the Public Health (Water) Act 1878, is a sum not exceeding £8 13s. 4d. per house, or such other sum, not exceeding £13 per house, as the Local Government Board, on the application of the local authority, determine to be reasonable. Note to
Sec. 16.

⁴ As to the duty of local authorities in regard to privies, w.c.'s, &c., see Public Health Act, 1875, Sections 35 to 41.

Scavenging and cleansing, Sections 42 to 46.

Nuisances, Sections 91 to 108.

Offensive trades, Section 112.

Disinfection of houses, Section 120.

In districts where the Public Health Acts (Amendment) Act, 1890, has been adopted, additional powers are given for dealing with some of the foregoing matters.

⁵ Main roads are repaired by the county council (Section 11 [1] Local Government Act, 1888). As to maintenance and repair of highways in urban districts see Public Health Act, 1875, Section 144 *et seq.*, and Public Health Acts Amendment Act, 1890, Section 41.

By Section 25 of the present Act rural district councils are constituted highway authorities in all rural districts.

The remedy here given for non-repair of highways is in addition to, and not in substitution for, the common law remedy by indictment. (Compare *Reg. v. Wakefield*, 20 Q. B. D. 810; 57 L. J. M. C. 52; 36 W. R. 911; 52 J. P. 422.)

As to complaint by a parish council that a district council has failed to take proceedings on their representation respecting the stopping, obstructing, or encroaching on a public right of way see Section 26 (4).

⁶ If the rural district is in more than one county, the complaint of the parish council must be made to the council of the county in which the parish is situate (Section 63 [2]).

⁷ For information as to the steps to be taken by the county council on passing such a resolution of transfer, as to the expenses incurred and as to the mode of defraying them, see Section 63.

⁸ That is, an order limiting a time for the performance, by the rural district council, of their duty in the matter of such complaint. If the duty is not performed by the time ordered, the order may be enforced by *mandamus*, or the county council may themselves do the work, or they may appoint some one to do it. (Public Health Act, 1875, Section 299. Sections 300 to 302 contain provisions for recovering expenses. These sections of the Public Health Act will be found in the Appendix, p. 381.)

⁹ For definition of "contributory place" see Section 229, Public Health Act, 1875, in the Appendix, p. 372.

¹⁰ The object of giving notice to the parish council of the parish affected is not specified, and, as the law stands, the parish council are not entitled to any voice in actually deciding whether or not the proposed works of sewerage or water supply shall be carried out. The responsibility of deciding still remains with the rural district council. But as the expenses of such works are usually defrayed by means of a loan, and as a public inquiry by an officer of the Local Government Board is usually held in the locality affected before sanction is given to the borrowing, the parish council may properly appear at the inquiry and make any representations they may think fit respecting the proposed works. Such representations could not fail to be carefully considered, and the provision that notice is to be given to the parish council before a contract for the works is entered into will give them an opportunity of fully investigating the matter before the inquiry is held.

Sec. 17.
Parish
officers and
parish
documents.

17. (1) A parish council may appoint one of their number to act as clerk of the council without remuneration.

(2) If no member of the parish council is appointed so to act, and there is an assistant overseer,¹ he, or such one of the assistant overseers, if more than one, as may be appointed by the council, shall be the clerk of the parish council, and the performance of his duties as such shall be taken into account in determining his salary.

(3) If there is no assistant overseer, the parish council may appoint a collector of poor rates,² or some other fit person, to be their clerk, with such remuneration as they may think fit.

(4) A parish council shall not appoint to the office of vestry clerk.

(5) When a parish council act as a parochial committee by delegation³ from the district council they shall have the services of the clerk of the district council, unless the district council otherwise direct.

(6) The parish council may appoint one of their own number or some other person to act as treasurer⁴ without remuneration, and the treasurer shall give such security as may be required by regulations of the county council.

(7) All documents required by statute⁵ or by standing orders of Parliament to be deposited with the parish clerk of a rural parish shall, after the election of a parish council, be deposited with the clerk, or, if there is none, with the chairman, of the parish council, and the enactments with respect to the inspection of,⁶ and taking copies of, and extracts from, any such documents shall apply as if the clerk, or chairman, as the case may be, were mentioned therein.

(8) The custody⁷ of the registers of baptisms, marriages, and burials, and of all other books and documents containing entries wholly or partly relating to the affairs of the Church⁸ or to ecclesiastical charities,⁸ except documents directed by law to be kept with the public books, writings, and papers of the parish, shall remain as provided by the existing law unaffected by this Act. All other public books, writings, and papers of the parish, and all documents directed by law to be kept therewith, shall either remain in their existing custody, or be deposited in such custody as the parish council may direct. The incumbent and churchwardens on the one part, and the parish council on the other, shall have reasonable access to all such books, docu-

ments, writings, and papers, as are referred to in this subsection, and any difference as to custody or access shall be determined by the county council.

Sec. 17.

(9) Every county council shall from time to time inquire into the manner in which the public books, writings, papers, and documents under the control of the parish council or parish meeting are kept with a view to the proper preservation thereof, and shall make such orders as they think necessary for such preservation, and those orders shall be complied with by the parish council or parish meeting.

¹ As to the appointment of assistant overseer *see* Section 5 (1). The amount of his salary will be settled by the parish council. If, however, there is an existing vestry clerk appointed under the Vestries Act, 1850, he and not an assistant overseer or other person will be clerk of the parish council (Section 81 [2]).

² Collectors of poor rates are officers of boards of guardians.

³ See note to Section 15 as to delegation to a parochial committee.

⁴ Treasurer of board of guardians kept the account at a bank which failed. Held that the treasurer was not liable to make good the loss. *Colchester (guardians) v. Moy* (1893).

⁵ *E.g.* under Section 20 Waterworks Clauses Act, 1847, copies of maps, plans, &c., have to be deposited with the parish clerks of the several parishes in England.

⁶ By 13 and 14 Vict., c. 57, s. 7, it was part of the duty of the vestry clerk "to keep the vestry books and the parish deeds and documents, and the rate books and accounts which are closed, and to give copies of and extracts from the same to any person entitled thereto,* such person paying for the same at the rate of fourpence for every seventy-two words or figures, and to permit any person or persons rated to the relief of the poor of the said parish, at all reasonable times to inspect the same or any of them, on pain of dismissal for neglecting to give such copies, or permit such inspection."

⁷ 52 Geo. III, c. 146, s. 5, provided that parish and other registers of births, baptisms, marriages, and burials were to be kept in custody of the rector, vicar, or other officiating minister of each parish "in a dry well-painted iron chest, to be provided and repaired as occasion may require at the expense of the parish."

58 Geo. III, c. 69, s. 2, required the churchwardens and overseers to provide minute books for the vestry proceedings, and Section 6 empowered the vestry to declare in whose custody should be kept various parish books and documents there specified.

24 and 25 Vict., c. 125, s. 2, enabled the overseers of any parish, with the consent of the vestry, to provide proper depositories of all the documents, books, and papers belonging to the parish for which no provision is otherwise^f made by law, and charge the same upon the poor rate.

* Such as inhabitants or parishioners, cf. 17 Geo. II, c. 3, s. 2.

[†] *E.g.* the registers of births, deaths, and marriages. These are kept by the superintendent registrars (6 and 7 Wm. IV, c. 86, s. 9).

Note to Sec. 17. In Reg. v. Eaton, 10 Jur., it was held that the parish chest was the proper place of custody for the rate books.

⁸ See Section 75 for definition of these expressions (pp. 178 and 179).

Parish
wards.

18. (1) A county council may, on application by the parish council, or not less than one tenth of the parochial electors¹ of a parish, and on being satisfied that the area or population of the parish is so large, or different parts of the population so situated, as to make a single parish meeting for the election of councillors impracticable or inconvenient, or that it is desirable for any reason that certain parts of the parish should be separately represented on the council, order that the parish be divided for the purpose of electing parish councillors into wards, to be called parish wards,² with such boundaries and such number of councillors for each ward as may be provided by the order.

(2) In the division of a parish into wards regard shall be had to the population according to the last published census for the time being, and to the evidence of any considerable change of population since that census, and to area, and to the distribution and pursuits of the population, and to all the circumstances of the case.

(3) Any such order may be revoked or varied by the county council on application by either the council or not less than one tenth of the parochial electors¹ of the parish, but while in force shall have effect as if enacted by this Act.

(4) In a parish divided into parish wards there shall be a separate election of parish councillors for each ward.³

¹ For definition of "parochial electors" see Section 44 and note; also Section 75 (2).

² If the division into wards is to affect the first election under this Act, it must be made as far as practicable before 1st July, 1894 (see Section 84 [3]).

³ For provisions relating to election of parish councillors see Section 3. As to parish meetings for parts of parishes see Section 49.

Provisions as
to small
parishes.

19. In a rural parish not having a separate parish council,¹ the following provisions shall, as from the appointed day,² but subject to provisions made by a grouping order,³ if the parish is grouped with some other parish or parishes,¹ have effect:

(1) At the annual assembly⁴ the parish meeting shall choose a chairman for the year;

(2) The parish meeting shall assemble not less than twice in each year;

(3) The parish meeting may appoint a committee of

Sec. 19.

their own number for any purposes which, in the opinion of the parish meeting, would be better regulated and managed by means of such a committee, and all the acts of the committee shall be submitted to the parish meeting for their approval :

(4) All powers, duties, and liabilities of the vestry⁵ shall, except so far as they relate to the affairs of the Church⁶ or to ecclesiastical charities,⁶ or are transferred by this Act to any other authority, be transferred to the parish meeting ;

(5) The power and the duty of appointing the overseers,⁷ and of notifying the appointment, and the power of appointing and revoking the appointment of an assistant overseer, shall be transferred to and vest in the parish meeting, and the power given by this Act to a parish council of appointing trustees of a charity⁸ in the place of overseers or churchwardens, shall vest in the parish meeting ;

(6) The chairman of the parish meeting and the overseers of the parish shall be a body corporate by the name of the chairman and overseers of the parish, and shall have perpetual succession, and may hold land for the purposes of the parish without licence in mortmain ; but shall in all respects act in manner directed by the parish meeting, and any act of such body corporate shall be executed under the hands, or if an instrument under seal⁹ is required under the hands and seals, of the said chairman and overseers ;

(7) The legal interest in all property which under this Act would, if there were a parish council, be vested on the appointed day² in the parish council shall vest in the said body corporate of the chairman and overseers of the parish, subject to all trusts and liabilities affecting the same, and all persons concerned shall make or concur in making such transfers (if any) as are requisite to give effect to this enactment ;

(8) The provisions of this Act with respect to the stopping or diversion of a public right of way,¹⁰ or the declaring of a highway to be unnecessary and not repairable at the public expense, and with respect to a complaint to a county council of a default¹¹ by a district council, shall apply, with the substitution of the parish meeting for the parish council ;

(9) A rate levied for defraying the expenses of the parish meeting (when added to expenses under any of the adoptive Acts¹²) shall not exceed sixpence in the pound in any local financial year ;

(10) On the application of the parish meeting the

Sec. 19. county council may confer on that meeting any of the powers conferred on a parish council by this Act;

(11) Any act of the parish meeting may be signified by an instrument executed at the meeting under the hands, or, if an instrument under seal⁹ is required under the hands and seals, of the chairman presiding at the meeting and two other parochial electors¹³ present at the meeting.

¹ The parishes having a separate council are indicated in Section 1, which also shows the conditions under which parishes may be grouped.

² As to appointed day *see* Section 84 (4).

³ The requisite provisions of a grouping order are indicated in Section 38.

⁴ The annual assembly of the parish meeting must be held on the 25th March in each year, or within seven days before or after that day (Schedule I [1][1]).

⁵ Compare Sections 6 to 8.

⁶ For definition of these words *see* Section 75.

⁷ *See* Section 5 as to appointment of overseers by parish councils.

⁸ *See* Section 14 as to appointment of trustees of a charity.

⁹ *See* note to Section 3 (9) as to the use of a seal by corporate bodies.

¹⁰ *See* Section 13.

¹¹ *See* Section 16 as to complaint of default.

¹² *See* Section 7 as to adoptive Acts.

¹³ For definition of parochial electors *see* Section 44 and note; also Section 75 (2).

PART II.

PART II.

GUARDIANS AND DISTRICT COUNCILS.

Election and
qualification
of guardians.

20. As from the appointed day¹ the following provisions shall apply to boards of guardians:—

(1) There shall be no *ex officio* or nominated guardians:

(2) A person shall not be qualified to be elected or to be a guardian for a poor law union unless he is a parochial elector² of some parish within the union, or has during the whole of the twelve months preceding the election³ resided in the union, or in the case of a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, is qualified to be elected a councillor⁴ for that borough, and no person shall be disqualified by sex or marriage for being elected or being a guardian. So much of any enactment, whether in a public general or local and personal Act,⁵ as relates to the qualification of a guardian shall be repealed:

(3) The parochial electors² of a parish shall be the

Sec. 20.

electors of the guardians for the parish, and, if the parish is divided into wards⁶ for the election of guardians, the electors of the guardians for each ward shall be such of the parochial electors² as are registered in respect of qualifications within the ward:

(4) Each elector may give one vote and no more⁷ for each of any number of persons not exceeding the number to be elected:

(5) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board:⁹

(6) The term of office of a guardian shall be three years, and one-third, as nearly as may be,⁸ of every board of guardians shall go out of office on the fifteenth day of April in each year, and their places shall be filled by the newly elected guardians. Provided as follows:—

(a) Where the county council on the application of the board of guardians of any union in their county consider that it would be expedient to provide for the simultaneous retirement of the whole of the board of guardians for the union, they may direct that the members of the board of guardians for that union shall retire together on the fifteenth day of April in every third year, and such order shall have full effect, and where a union is in more than one county, an order may be made by a joint committee¹⁰ of the councils of those counties;

(b) Where at the passing of this Act the whole of the guardians of any union, in pursuance of an order of the Local Government Board, retire together at the end of every third year,⁸ they shall continue so to retire, unless the county council, or a joint committee¹⁰ of the county councils, on the application of the board of guardians or of any district council of a district wholly or partially within the union, otherwise direct:

(7) A board of guardians may elect a chairman or vice-chairman, or both, and not more than two other persons, from outside their own body, but from persons qualified to be guardians of the union,¹¹ and any person so elected shall be an additional guardian and member of the board. Provided that on the first election, if a sufficient number of persons who have been *ex officio* or nominated guardians of the union, and have actually

Sec. 20. served as such, are willing to serve, the additional members shall be elected from among those persons.

[The provisions of this section are applied by Section 30 to London and to county boroughs. As to guardians hitherto elected under local Acts *see* Section 60 (5).]

¹ *See* Section 84 (4).

² For definition of "parochial elector" *see* Section 44 and note; also Section 75 (2).

³ By 7 and 8 Vict., c. 101, s. 17, the annual election of guardians is to take place within forty days after 25th March in each year.

⁴ The qualifications and disqualifications of councillors in municipal boroughs will be found in Sections 11 and 12 of the Municipal Corporations Act, 1882.

⁵ For definition of local and personal Act *see* Section 75 (p. 180).

⁶ Provisions for dividing parishes into wards for the election of guardians are contained in 7 and 8 Vict., c. 101, s. 19. (*See* also 45 and 46 Vict., c. 58, s. 8, Divided Parishes Act, 1882.)

⁷ *See* note to Section 2 (2).

⁸ As to powers of county councils to regulate retirement by thirds *see* Section 60, and as to retirement of guardians first elected *see* Section 79.

⁹ *See* Section 48.

¹⁰ The appointment of joint committees by county councils is provided for in Section 81 of the Local Government Act, 1888.

¹¹ The qualification of a guardian of a union is indicated in subsection 2 of this section. Notwithstanding the provision in subsection 1 of this section that there are to be no *ex officio* or nominated guardians, yet the board are themselves empowered to choose four persons to be members of the board, who are not elected by the parochial electors: these are a chairman, a vice-chairman, and two others. They must have the same qualification as a guardian elected in the ordinary way. Observe that it is only at the first election that these four persons are to be chosen from among those who have hitherto attended as *ex officio* guardians, if they or any of them are willing to serve.

Names of
county
districts and
district
councils.

21. As from the appointed day¹—

(1) Urban sanitary authorities shall be called urban district councils, and their districts shall be called urban districts;² but nothing in this section shall alter the style or title of the corporation or council of a borough:

(2) For every rural sanitary district there shall be a rural district council whose district shall be called a rural district:³

(3) In this and every other Act of Parliament, unless the context otherwise requires, the expression "district council" shall include the council of every urban district, whether a borough or not, and of every rural district, and the expression "county district" shall include every urban and rural district whether a borough or not.

¹ *See* Section 84 (4) as to "appointed day."

² By Section 6 of the Public Health Act, 1875, urban districts consist of—(1) Boroughs constituted such either before or after

the passing of the Public Health Act, 1875 (11th August, 1875); and (2) Improvement Act districts constituted such before the passing of that Act, and having no part of its area situated within a borough or local government district; and (3) Local Government districts constituted such either before or after the passing of that Act, having no part of its area situated within a borough, and not coincident in area with a borough or Improvement Act district.

Note to
Sec. 21.

The urban sanitary authority is, in boroughs:—(1) The mayor, aldermen, and burgesses acting by the council; (2) in Improvement Act districts, the Improvement Commissioners; and (3) in other Local Government districts, the local board.

In future, urban sanitary districts which are boroughs will continue to bear their existing titles; all other urban sanitary districts are to be called urban districts, and their authorities urban district councils.

³ “Rural districts.”—By Section 9 of the Public Health Act, 1875, “the area of any union which is not coincident in area with an urban district, nor wholly included in an urban district, with the exception of those portions (if any) of the area which are included in any urban district constitute a rural district.

In future rural sanitary districts will be called rural districts, and their authorities rural district councils.

The provisions of this section do not apply to county boroughs (Section 35). As to what are county boroughs *see* the Local Government Act, 1888, Section 31, and Sched. III.

22. The chairman of a district council¹ unless a woman or personally disqualified by any Act shall be by virtue of his office justice of the peace for the county in which the district is situate, but before acting as such justice he shall, if he has not already done so, take the oaths² required by law to be taken by a justice of the peace other than the oath respecting the qualification by estate.

Chairman of
council to be
justice.

¹ Where the district council is a borough the mayor is chairman (Municipal Corporation Act, 1882, Schedule II, rule 9). In every other district council the chairman must be elected in accordance with rule 3 of Schedule I (1) appended to the Public Health Act, 1875. That rule is as follows:—“Every local board shall from time to time at their annual meeting appoint [*one of their number*] to be chairman for one year at all meetings at which he is present.” By rule 13 of the same Schedule, rule 3 does not apply to the Oxford district. The annual meeting of a local board must be held as soon as may be convenient after the 15th of April in each year (rule 11). Prior to the passing of the present Act the above rules applied only to local boards and not to boards of guardians or rural sanitary authorities. Now, however, by virtue of Section 59 of this Act they apply to every urban district council other than a borough council, and to every rural district council and board of guardians as if such district council or board were a local board, except that the chairman of the council or board may be elected from outside the councillors or guardians.

It appears from the above section that a woman may be chairman of a district council, but she cannot be a justice of the peace.

**Note to
Sec. 22.**

The provisions of the above Section (22) are applied, by Section 31 (2), to vestries and district boards in London.

² Justices of the peace for counties and boroughs are required to take the oath of allegiance and judicial oath as prescribed in Sections 2 and 4 of the Promissory Oaths Act, 1868.

The oath of allegiance is as follows: "I, ———, do swear that I will be faithful and bear true allegiance to her Majesty Queen Victoria, her heirs and successors, according to law. So help me God."

The judicial oath is as follows: "I, ———, do swear that I will well and truly serve our sovereign lady Queen Victoria in the office of (justice of the peace), and I will do right to all manner of people after the laws and usages of this realm, without fear or favour, affection or ill-will. So help me God."

The oaths are to be taken before such persons as Her Majesty may from time to time appoint, or such officers as are mentioned in Section 2 of the Promissory Oaths Act, 1871, *e. g.* it may be taken in open court before one or more of the judges of the High Court of Justice, or at the General or Quarter Sessions of the peace for the county, borough, or place in which the person taking the oath acts as justice. By an order in Council of 25th November, 1882, a mayor may take the oaths before two borough justices, and if there are no justices before two councillors.

Constitution
of district
councils in
urban
districts not
being
boroughs.

23. As from the appointed day,¹ where an urban district² is not a borough—

(1) There shall be no ex-officio or nominated members³ of the urban sanitary authority :

(2) A person shall not be qualified to be elected or to be a councillor unless he is a parochial elector⁴ of some parish within the district, or has during the whole of the twelve months preceding the election resided in the district, and no person shall be disqualified⁵ by sex or marriage for being elected or being a councillor. So much of any enactment whether in a public general or local and personal Act as relates to the qualification of a member of an urban sanitary authority shall be repealed :

(3) The parochial electors⁴ of the parishes in the district shall be the electors of the councillors of the district, and, if the district is divided into wards,⁶ the electors of the councillors for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :

(4) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :⁷

(5) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board :⁸

(6) The term of office of a councillor shall be three years, and one-third, as nearly as may be, of the council, and if the district is divided into wards⁶ one-third, as nearly as may be, of the councillors for each ward, shall go out of office on the fifteenth day of April in each year,⁹ and their places shall be filled by the newly elected councillors. Provided that a county council may on request made by a resolution of an urban district council, passed by two-thirds of the members voting on the resolution, direct that the members of such council shall retire together on the fifteenth day of April in every third year, and such order shall have full effect. Sec. 23.

[The provisions of this section are to some extent applied to vestries in London by Section 31 (1).]

¹ See Section 84 (4).

² For definition of "urban district" see Section 21.

³ But the chairman of a district council may be elected from outside the councillors (Section 59 [1]).

⁴ For definition of "parochial elector" see Section 44 and Section 75 (2).

⁵ As to disqualification for being elected or being a member or chairman of a district council or parish see Section 46.

⁶ Provisions for dividing urban districts into wards were contained in the Public Health Act, 1875, Schedule II. That Schedule is repealed by this Act, but is replaced by the rules framed by the Local Government Board under Section 23 (5) of this Act.

⁷ See note to Section 2 (2).

⁸ See Section 48.

⁹ As to retirement of district councillors first elected, see Section 79 (6).

24. (1) The district council of every rural district shall consist of a chairman¹ and councillors, and the councillors shall be elected by the parishes or other areas² for the election of guardians in the district. Rural district councils.

(2) The number of councillors for each parish or other area in a rural district shall be the same as the number of guardians for that parish or area.³

(3) The district councillors for any parish or other area² in a rural district shall be the representatives of that parish or area on the board of guardians, and when acting in that capacity shall be deemed to be guardians of the poor, and guardians as such shall not be elected for that parish or area.⁴

(4) The provisions of this Act with respect to the qualification, election, and term of office and retirement of guardians,⁵ and to the qualification of the chairman⁶ of the board of guardians, shall apply to district

Sec. 24. councillors and to the chairman of the district council of a rural district, and any person qualified to be a guardian for a union comprising the district shall be qualified to be a district councillor for the district.

(5) Where a rural sanitary district is on the appointed day⁷ situate in more than one administrative county,⁸ such portion thereof as is situate in each administrative county shall, save as otherwise provided⁹ by or in pursuance of this or any other Act, be as from the appointed day⁷ a rural district;

38 & 39 Vict.,
c. 55. Provided that where the number of councillors of any such district will be less than five, the provisions, so far as unrepealed,¹⁰ of Section nine of the Public Health Act, 1875,¹⁰ with respect to the nomination of persons to make up the members of a rural authority to five, shall apply, unless the Local Government Board by order direct that the affairs of the district shall be temporarily administered by the district council of an adjoining district in another county with which it was united before the appointed day,⁷ and, if they so direct, the councillors of the district shall be entitled, so far as regards those affairs, to sit and act as members of that district council, but a separate account shall be kept of receipts and expenses in respect of the district, and the same shall be credited or charged separately to the district.

(6) The said provisions of Section 9¹⁰ of the Public Health Act, 1875, shall apply to the district council of a rural district to which they apply at the passing of this Act.

(7) Every district council for a rural district shall be a body corporate by the name of the district council, with the addition of the name of the district, or if there is any doubt as to the latter name,¹¹ of such name as the county council direct, and shall have perpetual succession and a common seal,¹¹ and may hold land for the purposes of their powers and duties without licence in mortmain.

¹ As to the chairman of a district council *see* Section 22 and note, Section 46, Section 59, and the rules of the Local Government Board.

² As to areas, other than parishes, which may elect guardians, *see* Section 20 (3).

³ The number of guardians to be elected in every union is fixed, under Section 38 of 4 and 5 Wm. IV, c. 76, by the Local Government Board, to whom the functions of the Poor Law Commissioners and Poor Law Board were transferred in 1871.

Where the area of a poor law union comprises within it the whole or part of one or more urban districts and the whole or part

of one or more rural districts, guardians, as such, will be elected for the urban districts, but the rural district councillors will be the guardians for rural districts. Note to Sec. 24.

⁵ Election, term of office, and retirement of guardians, *see* Section 20 (5) and (6). As to their qualification *see* Section 20 (2) and Section 46.

⁶ As to the qualification of the chairman of the board of guardians *see* Section 20 (7) and Section 46.

⁷ *See* Section 84 (4).

⁸ For definition of "administrative county" *see* note to Section 75.

⁹ The provisions of this subsection (5) will come into operation on the appointed day, unless other provisions are made by order of the county council under Section 36 of this Act, or Section 57 of the Local Government Act, 1888, or unless the Local Government Board make the order referred to.

¹⁰ The provisions in Section 9 Public Health Act, 1875, which are repealed, are shown in Schedule II of this Act. The part of Section 9 which applies here is as follows:—"Where the number of elective guardians who are not by this section disqualified from acting and voting as members of the rural authority is less than five, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number. . . . and the persons so nominated shall be entitled to act and vote as members of the rural authority, but not further or otherwise." Compare Section 36 (1) and note thereto.

¹¹ Doubt as to the name of a rural district may arise, *e.g.* where a new rural district is constituted under the last preceding subsection. A new name may be required, and this will be settled by the county council; *see* also Section 55.

¹² *See* note to Section 2 (2) as to cases where a seal should be used.

25. (1) As from the appointed day,¹ there shall be transferred² to the district council of every rural district all the powers, duties, and liabilities of the rural sanitary authority³ in the district, and of any highway authority in the district, and highway boards⁴ shall cease to exist, and rural district councils shall be the successors of the rural sanitary authority and highway authority, and shall also have as respects highways all the powers, duties, and liabilities of an urban sanitary authority under Sections one hundred and forty-four to one hundred and forty-eight of the Public Health Act, 1875, and those sections shall apply in the case of a rural district and of the council thereof in like manner as in the case of an urban district and an urban authority. Provided that the council of any county may by order postpone within their county or any part thereof the operation of this section, so far as it relates to highways, for a term not exceeding three years from the appointed day¹ or such further period as the Local Government Board may on the application of such council allow.⁵

Powers of district council with respect to sanitary and highway matters.

38 & 39 Vict., c. 55.

Sec. 25. (2) Where a highway repairable *ratione tenuræ*⁶ appears on the report of a competent⁷ surveyor not to be in proper repair, and the person liable to repair the same fails when requested so to do by the district council to place it in proper repair, the district council may place the highway in proper repair, and recover from the person liable to repair the highway the necessary expenses of so doing.

(3) Where a highway authority receives any contribution from the county council towards the cost of any highway under Section eleven, subsection (10), of the Local Government Act, 1888,⁸ such contribution may be made, subject to any such conditions for the proper maintenance and repair of such highways, as may be agreed on between the county council and the highway authority.

(4) Where the council of a rural district become the highway authority for that district, any excluded part of a parish under Section two hundred and sixteen of the Public Health Act, 1875,⁹ which is situate in that district, shall cease to be part of any urban district for the purpose of highways, but until the council become the highway authority such excluded part of a parish shall continue subject to the said section.

(5) Rural district councils shall also have such powers, duties, and liabilities of urban sanitary authorities under the Public Health Acts or any other Act, and such provisions of any of those Acts relating to urban districts shall apply to rural districts, as the Local Government Board by general order direct.¹⁰

(6) The power to make such general orders shall be in addition to and not in substitution for the powers conferred on the Board by Section two hundred and seventy-six of the Public Health Act, 1875,¹⁰ or by any enactment applying that section ; and every order made by the Local Government Board under this section shall be forthwith laid before Parliament.

(7) The powers conferred on the Local Government Board by the said Section two hundred and seventy-six,¹⁰ or by any enactment applying that section, may be exercised on the application of a county council, or with respect to any parish or part of a parish on the application of the parish council of that parish.

¹ See Section 84 (4).

² As to the conditions on which such transfer is made see Section 67.

³ The powers, &c., of a rural sanitary authority are mainly comprised in the Public Health Acts and Acts incorporated therewith ;

the Infectious Disease (Notification) Act, 1889; the Infectious Disease (Prevention) Act, 1890; Housing of the Working Classes Act, 1890, &c.

Note to
Sec. 25.

The expression "Public Health Acts" comprises the Public Health Act, 1875; Public Health (Water) Act, 1878; Public Health (Interments) Act, 1879; Public Health (Fruit Pickers, Lodgings) Act, 1882; Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883; Public Health (Confirmation of Bye-laws) Act, 1884; Public Health (Officers) Act, 1884; Public Health (Ships, &c.) Act, 1885; Public Health (Members and Officers) Act, 1885; Sections 7 to 10 of the Housing of the Working Classes Act, 1885; Public Health (Buildings in Streets) Act, 1888; Public Health Act (1889); Public Health (Rating of Orchards) Act, 1890; Public Health Acts Amendment Act, 1890.

⁴ Highway boards have been constituted in many localities under the Highway Acts, 1862 and 1864, but the tendency has long been to make them as far as possible coincident with rural sanitary districts (*see* Section 3 Highway, &c., Act, 1878). By the present Act highway boards will cease to exist unless specially continued by the county council under the proviso to sub-section (1) of this Section; rural district councils will be the highway authorities in their respective districts, and, like urban district councils, they will have the powers of Sections 144 to 148 of the Public Health Act, 1875 (*see* Appendix). *See* also page 188.

⁵ Where a county council postpones the operation of this Section, its order must provide for holding elections of highway boards during the interval of postponement (Section 84 [4]).

⁶ The liability to repair *ratione tenuræ* arises by virtue of the tenure of lands by individuals or corporations.

When a highway repairable *ratione tenuræ* is altered by statute so that its nature and course are practically destroyed, the liability to repair *ratione tenuræ* ceases. An owner of land, not being occupier, is not liable to repair *ratione tenuræ* (Reg. v. Barker, 25 Q. B. D., 213; 59 L. J. M. C., 105; 62 L. T., 578; 54 J. P., 615; 6 T. L. R., 328).

⁷ Not necessarily a surveyor of highways.

⁸ Section 11 of the Local Government Act, 1888, relates to the maintenance of main roads the expenses of which devolve upon county councils. But subsection (10) of that section provides that "The county council may, if they think fit, contribute towards the cost of the maintenance, repair, enlargement, and improvement of any highway or public footpath in the county, although the same is not a main road." The council, in making such contribution, are now empowered to impose conditions as to the proper maintenance and repair of the highways in respect of which it is made.

⁹ Section 216 Public Health Act, 1875, deals with the costs of repairing highways in urban districts (*see* Appendix, p. 371).

¹⁰ The power of conferring urban powers upon rural district councils given to the Local Government Board by this subsection is wider than that conferred upon them by Section 276 Public Health Act, 1875. Under their new power the Local Government Board may, if they think fit, act without any such application as is mentioned in Section 276 of the Public Health Act, 1875. Note, however, that any general order made by that Board under the power conferred by this subsection must be laid before Parliament, and objection to it may there be taken. This is not required in the

Note to Sec. 25. case of action under Section 276. The provisions of Section 276 will be found in the Appendix.

Duties and powers of district council as to rights of way, common, and roadside wastes.

26. (1) It shall be the duty of every district council to protect all public rights of way,¹ and to prevent as far as possible the stopping or obstruction of any such right of way, whether within their district or in an adjoining district in the county or counties in which the district is situate, where the stoppage or obstruction thereof would in their opinion be prejudicial to the interests of their district, and to prevent any unlawful encroachment on any roadside waste within their district.²

39 & 40 Vict., c. 56.

(2) A district council may with the consent of the county council for the county within which any common land is situate aid persons in maintaining rights of common where, in the opinion of the council, the extinction of such rights would be prejudicial to the inhabitants of the district; and may with the like consent exercise in relation to any common within their district all such powers as may, under Section eight³ of the Commons Act, 1876, be exercised by an urban sanitary authority in relation to any common referred to in that section; and notice of any application to the Board of Agriculture in relation to any common within their district shall be served upon the district council.

(3) A district council may, for the purpose of carrying into effect this section, institute or defend any legal proceedings, and generally take steps as they deem expedient.

(4) Where a parish council have represented to the district council that any public right of way⁴ within the district or an adjoining district in the county or counties in which the district is situate has been unlawfully stopped or obstructed, or that an unlawful encroachment has taken place on any roadside waste² within the district, it shall be the duty of the district council, unless satisfied that the allegations of such representation are incorrect, to take proper proceedings accordingly; and if the district council refuse or fail to take any proceedings in consequence of such representation, the parish council may petition the county council for the county within which the way or waste is situate, and if that council so resolve the powers and duties of the district council under this section shall be transferred to the county council.⁵

(5) Any proceedings or steps taken by a district council or county council in relation to any alleged

right of way shall not be deemed to be unauthorised by reason only of such right of way not being found to exist. Sec. 26.

(6) Nothing in this section shall affect the powers of the county council in relation to roadside wastes.⁶

(7) Nothing in this section shall prejudice any powers exercisable by an urban sanitary authority at the passing of this Act, and the council of every county borough shall have the additional powers conferred on a district council by this section.

¹ Compare Section 13.

An injunction has been granted to restrain a local board from obstructing a highway by using it as a place of deposit for road-mending materials (*Grosvenor v. Sutton*, L. B., 1888, W. N. 223).

To constitute wilful obstruction of a highway within 5 and 6 Wm. IV, c. 50, s. 72, it is not necessary that there should be any act of commission. The offence may be complete by an omission on the part of the person whose duty it is to remove an obstruction to do so after notice. *Gully v. Smith* (12 Q. B. D., 121; 53 L. J. M. C., 35; 48 J. P., 309.)

Leaving a roller on the greensward by side of road projecting a few inches over the metalled part of the road, held to be an obstruction. *Wilkins v. Day* (12 Q. B. D., 110; 32 W. R., 123; 49 L. T., 399.)

² Compare Section 11 (1) Local Government Act, 1888, as to the power of county councils in regard to protection of roadside wastes. Strips of grass bordering a main road are "roadside wastes." The herbage in these does not necessarily vest in the highway authority. *Curtis v. Kesteven County Council*, 45 Ch. D., 504; 60 L. J. Ch., 103; 63 L. T., 543; 39 W. R., 199; *see also Pryor v. Petre*, 1894, W. N., 36 ('Sol. Journal,' 3rd March, 1894); *Reg. v. Bradley*, 10 T. L. R., p. 346; *Reg. v. Berger*, 10 T. L. R., p. 308; *Haigh v. West*, 1893, 2 Q. B., 19.

³ Section 8 of the Commons Act, 1876, gave to urban sanitary authorities certain powers in regard to suburban commons (*i. e.* commons situate either wholly or partly in any town or towns, or within six miles of any town or towns). By virtue of these the urban sanitary authority may (*a*) appear before, and make representations to, the Commissioner (of the Board of Agriculture) holding local inquiry in reference to applications for regulating or inclosing such commons; (*b*) undertake to contribute to the maintenance of recreation grounds, or of paths and roads, &c., for the benefit of their town in relation to the common; (*c*) pay compensation to commoners in order to secure greater privileges for the benefit of their town; (*d*) acquire by gift and hold, without licence in mortmain, on trust for the benefit of their town, any suburban common, and any rights in such a common; (*e*) purchase and hold, with a view to prevent the extinction of the rights of common, any saleable rights in common or any tenement of a commoner having annexed thereto rights of common; (*f*) apply (with the consent of persons representing at least one-third in value of such interests in a suburban common as are proposed to be affected by a provisional order under the Commons Act, 1876) to the Board of Agriculture for the regulation of such common, with a view to the benefit of their town and the improvement of

**Note to
Sec. 26.**

the common; (g) have vested in them by the Board of Agriculture powers of management or other powers. The expenses of an urban sanitary authority, under Section 8 of the Commons Act, 1876, may be defrayed out of any rate applicable to the payment of expenses incurred by the authority in the execution of the Public Health Act, 1875, and not otherwise provided for.

A town for the purposes of this section means any municipal borough or Improvement Act district, or Local Government district having a population of not less than 5000 inhabitants, reckoned from the last published census. Distances are to be measured in a direct line from the town hall, if any; if none, from the cathedral or church, but if there are more churches than one, then from the principal market place of the town to the nearest point of the suburban common. When part only of a common is situate within the aforesaid distance from a town such part is to be deemed for the purposes of this section to be a common separate and distinct from the part situated without and beyond such distance.

⁴ See note to Section 13 (1).

⁵ See Section 63 for provisions which are to have effect when powers of a district council are transferred to a county council. That section provides the mode of defraying consequent expenses.

⁶ As to county councils' powers in regard to roadside wastes see Section 11 (1) Local Government Act, 1888.

Transfer of
certain
powers of
justices to
district
councils.

27. (1)¹ As from the appointed day the powers, duties, and liabilities of justices out of session in relation to any of the matters following, that is to say:—

- (a) the licensing of gang masters;²
- (b) the grant of pawnbrokers' certificates;³
- (c) the licensing of dealers in game;⁴
- (d) the grant of licenses for passage brokers and emigrant runners;⁵
- (e) the abolition of fairs and alteration of days for holding fairs;⁶
- (f) the execution as the local authority of the Acts relating to petroleum and infant life protection;⁷

when arising within a county district, shall be transferred to the district council of the district.

(2) As from the appointed day, the powers, duties, and liabilities of quarter sessions in relation to the licensing of knackers' yards⁸ within a county district shall be transferred to the district council of the district.

(3) All fees payable in respect of the powers, duties, and liabilities transferred by this section shall be payable to the district council.

¹ The provisions of this section are applied to county boroughs by Section 32.

² The Act for the regulation of agricultural gangs is printed in the Appendix (p. 205).

³ PAWNBROKERS.Note to
Sec. 27.

By Section 37 Pawnbrokers Act, 1872, every pawnbroker must yearly obtain an excise licence from the Inland Revenue Commissioners for each shop kept by him.

Before the licence is granted every pawnbroker who was not licensed before the passing of the Act, or is not an executor, administrator, or assign of a pawnbroker who was licensed before this Act, must obtain a certificate, in the metropolis from a police magistrate, in any place within the jurisdiction of a stipendary magistrate from that magistrate, and in other places from the justices at special petty sessions (Sections 39 and 40).

[This certificate will in future be obtainable from the district council of the district in which the application is made.]

The certificate must be in the following form or to the like effect, and will remain in force for one year from its date (Section 41).

ENGLAND.

We [here insert description of the authority granting the certificate] do hereby certify that we do authorise the grant to A. B., of _____, in the county of _____, of a license to carry on the business of a pawnbroker within the township of _____ (or parish of _____ or other place as the case may be).

[Sealed with the common seal of the said _____ this day of _____, 18—, in the presence of _____]. [L. S.].

PAWNBROKERS ACT, 1872.

Section 42. "A person intending to apply for the first time for a certificate under this Act shall proceed as follows:—(1) Twenty-one days at least before the application he shall give notice by registered letter sent by post of his intention to one of the overseers of the poor of the parish or place in which he intends to carry on business, and to the superintendent of police of the district, and shall in the notice set forth his name and address. (2) Within twenty-eight days before the application he shall cause a like notice to be affixed and maintained between ten o'clock in the morning and five o'clock in the afternoon of two consecutive Sundays, on the principal door or one of the doors of the church or chapel of the parish or place, or if there is none, then on some other public and conspicuous place in the parish or place."

Section 43. "An application for a certificate shall not be refused, except on the following grounds, or one of them:—(1) That the applicant has failed to produce satisfactory evidence of good character. (2) That the shop in which he intends to carry on the business of a pawnbroker, or any adjacent house or place owned or occupied by him, is frequented by thieves or persons of bad character. (3) That he has not complied with the last preceding section."

⁴ DEALERS IN GAME.

By 1 and 2 Wm. IV, c. 32, authority is given to the justices (in future to the district council) to grant to any person being a householder or keeper of a shop or stall within their district, and not being an innkeeper, or victualler, or licensed to sell beer by retail,* nor being the owner, guard, or driver of any mail coach, or

* The holder of an "additional licence to sell beer" under 26 and 27 Vict., c. 33, s. 1, is disqualified from holding a licence to deal in game (*Shoolbred v. St. Pancras Justices*, 24 Q. B. D., 346).

**Note to
Sec. 27.**

other vehicle employed in the conveyance of the mails of letters, or of any stage coach, stage waggon, van, or other public conveyance, nor being a carrier or higgler, nor being in the employment of any of the above-mentioned persons, a licence according to the form in the schedule (A) annexed to the Act, empowering the person to whom the licence is granted to buy game at any place from any person who may lawfully sell game by virtue of that Act, and also to sell the same at one house, shop, or stall only, kept by him: provided that every person, while so licensed to deal in game as aforesaid, shall affix to some part of the outside of the front of his house, shop, or stall, and shall there keep, a board having thereon in clear and legible characters his christian name and surname, together with the following words, *i.e.* "Licensed to deal in game." The licence is to continue in force for one year from the granting thereof.

Section 21. Partners need only take out one licence if they carry on business at only one house, shop, or stall.

Section 22. The licence becomes void on the holder's conviction of any offence under the Act.

Section 26. Innkeepers and tavernkeepers may, without any such licence for dealing in game, sell game for consumption in their houses if they have obtained it from a licensed dealer.

Section 28. "If any person being licensed to deal in game according to this Act, shall buy or obtain any game from any person not authorised to sell game for want of a game certificate, or for want of a licence to deal in game; or if any person, being licensed to deal in game according to this Act, shall sell or offer for sale any game at his house, shop, or stall, without such board as aforesaid being affixed to some part of the outside of the front of such house, shop, or stall, at the time of such selling or offering for sale, or shall affix or cause to be affixed such board to more than one house, shop, or stall, or shall sell any game at any place other than his house, shop, or stall, where such board shall have been affixed; or if any person not being licensed to deal in game according to this Act, shall assume or pretend, by affixing such board as aforesaid, or by exhibiting any certificate, or by any other device or pretence, to be a person licensed to deal in game; every such offender, being convicted thereof before two justices of the peace, shall forfeit and pay such sum of money not exceeding ten pounds, as to the said justices shall seem meet, together with the costs of the conviction."

Section 29 exempts from liability the servants of a licensed dealer acting in the usual course of their employment.

The following form of licence may be used by a district council in place of Schedule (A) prescribed by 1 and 2 Wm. IV, c. 32.

Form of Licence.

1 and 2 Wm. IV, c. 32, s. 18; and 56 and 57 Vict., c. 73, s. 27.

At a meeting of the _____ district council for _____, holden at _____, on the _____ day of _____, the said district council, pursuant to the powers conferred upon them by the 27th Section of the Local Government Act, 1894, do herein authorise and empower A. B., of _____ [here insert the name, description, and place of residence, and, if more than one in partnership, say, C. D. of, &c. and E. F., of &c., being partners], being a householder [or householders] [or keeper (or keepers) of a shop or stall, as the case may be], to buy game from any person authorised to sell game by virtue of an act passed in the second year of the reign of

King William IV, intituled "An Act to amend the laws in England relative to Game;" and we do also authorise and empower the said A. B. [or C. D. and E. F. being partners] to sell at his [or their] house [shop or stall] any game so bought, provided that the said A. B. [or C. D. and E. F. being partners] shall affix to some part of the outside of the front of his [or their] house [shop or stall], and shall there keep a board having thereon in clear and legible characters his christian name and surname [or their christian names and surnames], together with the following words, "licensed to deal in game." This licence will expire on .

Note to
Sec. 27.

Sealed with the seal of the district council on the day of , in the presence of [L. S.]

In addition to the licence to deal in game required by the Game Act, 1831, to be obtained from the justices, a dealer in game must also obtain a further licence from the Inland Revenue Commissioners in a form prescribed by them (23 and 24 Vict., c. 90, s. 14; 24 and 25 Vict., c. 91, s. 17).

⁵ PASSAGE BROKERS.

By Section 66 of the Passengers Act, 1855: "No person whatever shall directly or indirectly act as a passage broker in respect of passages from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea, or shall sell or let, or agree to sell or let, or be in anywise concerned in the sale or letting of passages in any ship, whether a 'passenger ship' or otherwise, proceeding from the United Kingdom to any such place as aforesaid, unless such person, with two good and sufficient sureties, to be approved by the emigration officer at the port nearest to the place of business of such person, shall have previously entered into a joint and several bond, in the sum of £1000, to Her Majesty, her heirs and successors," according to the form contained in Schedule D to the Act. The [Emigration Commissioners*] and agents of passage brokers are exempted from the provisions of Section 66.

By Section 67 any person wishing to obtain a licence to act as a passage broker in respect of passages from the United Kingdom to any place out of Europe, and not being in the Mediterranean Sea, was required to make application for the same to the justices at the Petty Sessions held for the district or place in which such person had his place of business; and such justices were authorised to grant a licence for that purpose according to a form (E) in the schedule annexed to the Act. The licence continued in force until the 31st December in the year in which it was granted, and for thirty-one days afterwards, unless sooner forfeited by order of the justices for one of the reasons specified in the Act. The justices had to give notice to the [Emigration Commissioners*] of the licences granted. The applicant for a licence had to satisfy the justices that he had complied with the requirements of the statute in regard to the bond above referred to, and that he had given the statutory fourteen days' notice to the Emigration Commissioners of his intention to apply for a licence.

By Section 69 of the Act passage brokers are forbidden to employ agents except those expressly appointed by them, and by Section 70 a penalty is imposed on persons who fraudulently induce others to engage passages.

The term "passage," under Section 3 of the Act, "includes all passages except cabin passages."

* Now the Board of Trade (35 and 36 Vict., c. 73, s. 5).

**Note to
Sec. 27.**

Emigrant Runners.

By Section 3 of the Passengers Act, 1855, the expression "emigrant runner" signifies "every person, other than a licensed passage broker or his *bond fide* salaried clerk, who within any port or place of shipping, or within five miles of the outer boundaries thereof, for hire or reward, or the expectation thereof, shall directly or indirectly conduct, solicit, influence, or recommend any intending emigrant to or on behalf of any passage broker, owner, charterer, or master of a ship, lodging-house or tavern or shop-keeper, money changer or other dealer or chapman, for any purpose connected with the preparations or arrangements for a passage, or shall give or pretend to give to such intending emigrant any information or assistance in any way relating to emigration."

Section 75 of the Act imposes a penalty (£1 to £5) on persons acting as emigrant runners without licence and badge, and on passage brokers employing such persons.

Section 76. "The justices of the peace at any petty sessions held for the district or place within which any person wishing to act as an 'emigrant runner' is to carry on his business may upon the recommendation in writing of an emigration officer or of the chief constable or other head officer of police of such district or place (but not otherwise), grant, if they shall think fit, to such person wishing to act as runner a licence for that purpose," according to form M. in the Schedule to the Act. On getting his licence the runner must lodge it with the nearest emigration officer, who will supply him with the necessary badge.

The licence remains in force (Section 77) until the 31st December of the year in which it was granted unless sooner revoked by [any justice of the peace] for any offence against the Act or "for any other misconduct committed by the holder of such licence."

Section 78 imposes a penalty on the runner for certain specified acts of misconduct.

The duties of the justices under the foregoing Sections are now transferred to the district councils.

6 ABOLITION OF FAIRS: ALTERATION OF DAYS FOR HOLDING FAIRS.

Fairs may be abolished, or the days for holding them altered, by the Secretary of State on the representation of the district council of the district in which the fair is held, with the consent of the owner for the time being of such fair.

The statutes relating to this subject (34 and 35 Vict., c. 12; 36 and 37 Vict., c. 37) are set out in the Appendix.

7 PETROLEUM: INFANT LIFE PROTECTION.

The statutes bearing on these subjects are set out in the Appendix.

LICENSING OF KNACKERS' YARDS.

⁸ The statutes regulating the slaughtering of horses are:—26 Geo. III, c. 71; 7 and 8 Vict., c. 87; and 12 and 13 Vict., c. 92, s. 7. These are set out in the Appendix under the title of "The Knackers' Acts."

28. The expenses incurred by the council of an urban district in the execution of the additional powers conferred on the council by this Act shall, subject to the provisions of this Act, be defrayed in a borough out of

the borough fund or rate,¹ and in any other case out of the district fund and general district rate or other fund applicable towards defraying the expenses of the execution of the Public Health Act, 1875.²

Sec. 28.

38 & 39 Vict.,
c. 55.

¹ See the Municipal Corporation Act, 1882, Sections 139 to 149 and Schedule 5.

² See the Public Health Act, 1875, Section 207 *et seq.* in the Appendix.

29. The expenses incurred by the council of a rural district shall, subject to the provisions of this Act, be defrayed in manner directed by the Public Health Act, 1875, with respect to expenses incurred in the execution of that Act by a rural sanitary authority,¹ and the provisions of the Public Health Acts with respect to those expenses shall apply accordingly.

Expenses of
rural district
council.

Provided as follows:—

(a) Any highway expenses shall be defrayed as general expenses:²

(b) When the Local Government Board determine any expenses under this Act to be special expenses and a separate charge on any contributory place, and such expenses would if not separately chargeable on a contributory place be raised as general expenses, they may further direct that such special expenses shall be raised in like manner as general expenses, and not by such separate rate for special expenses as is mentioned in Section two hundred and thirty of the Public Health Act, 1875:³

38 & 39 Vict.,
c. 55.

(c) A district council shall have the same power of charging highway expenses under exceptional circumstances on a contributory place as a highway board has in respect of any area under Section seven of the Highways and Locomotives (Amendment) Act, 1878:⁴

41 & 42 Vict.,
c. 77.

(d) Where highway expenses would, if this Act had not passed, have been in whole or in part defrayed in any parish or other area out of any property or funds other than rates, the district council shall make such provision as will give to that parish or area the benefit of such property or funds by way of reduction of the rates on the parish or area.⁵

¹ See Section 229 of the Public Health Act, 1875 (p. 372).

² The distinction between general and special expenses is indicated in Section 229 of the Public Health Act, 1875. *General expenses* are payable out of a common fund raised out of the poor

**Note to
Sec. 29.**

rate of the parishes in the rural district according to the rateable value of each contributory place. *Special expenses* form a separate charge on the contributory place concerned. The expression "contributory place" is defined in the same section.

³ Special expenses levied by a separate rate under Section 230 of the Public Health Act, 1875, are raised, in the contributory place concerned, in the same manner as if the rate were for the relief of the poor, with this exception (namely)—"That the owner of any tithes, or of any tithe commutation rent-charge, or the occupier of any land used as arable meadow or pasture ground only, or as woodlands" (orchards*), "market-gardens or nursery grounds, and the occupier of any land covered with water, or used as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall, where a special assessment is made for the purpose of such rate, be assessed in respect of one fourth part only of the rateable value thereof, or where no special assessment is made, shall pay in respect of the said property one fourth part only of the rate in the pound payable in respect of houses and other property." But where the amount to be levied is less than £10, or is so small that a rate less than one penny in the pound would be required to raise the same, a special rate cannot be levied, but the amount must be paid as if it formed part of the contribution in respect of general expenses.

The effect of Section 29 (b) of this Act is that where the Local Government Board determine any expenses under it to be special expenses which, if not separately chargeable on the contributory place, would be raised as general expenses, the Board may direct such special expenses to be raised in the contributory place as general expenses. Where such a direction is given the owners of the various properties specified in Section 230 of the Public Health Act, 1875, will have to pay a rate of the same amount as is payable in respect of houses and other property instead of one fourth part only of that rate.

⁴ By Section 7 of the Highway, &c., Act, 1878, "if a highway board think it just, by reason of natural differences of soil or locality, or other exceptional circumstances, that any parish or parishes within their district should bear the expenses of maintaining its or their own highways, they may (with the approval of the county authority or authorities of the county or counties within which their district, or any part thereof, is situate) divide their district into two or more parts, and charge exclusively on each of such parts the expenses payable by such highway board in respect of maintaining and keeping in repair the highways situate in each such part; so, nevertheless, that each such part shall consist of one or more highway parish or highway parishes."

⁵ The amount to be collected from such a parish should be fixed by the district council in the usual way and without regard to the property or fund specially available for paying the expenses in question. The amount of the latter should then be deducted from the amount so fixed and the balance raised by a rate in the parish.

Guardians in
London and
county
boroughs.

30. The provisions of this Part of this Act respecting guardians shall apply to the administrative county of London and to every county borough.¹

* "Orchards" were added by "The Public Health (Rating of Orchards) Act, 1890."

¹ The provisions referred to are those contained in Section 20. The provisions in Sections 46, 79, 80 and 84, respecting guardians, also presumably apply to London as well as to county boroughs. The expression "administrative county of London" means the City of London and the parishes and places mentioned in Schedules A, B, and C to the Metropolis Management Act, 1855, as amended by subsequent Acts (*see* Local Government Act, 1888, Sections 40 and 100). Note to Sec. 30.

For a definition and list of county boroughs *see* Local Government Act, 1888, Section 31, and Schedule 3 of that Act.

31. (1) The provisions of this Act with respect to the qualification of the electors of urban district councillors,¹ and of the persons to be elected,² and with respect to the mode of conducting the election,³ shall apply as if members of the local board of Woolwich⁴ and the vestries elected under the Metropolis Management Acts, 1855 to 1890, or any Act amending those Acts, and the auditors for parishes elected under those Acts,⁵ and so far as respects qualification of persons to be elected⁵ as if members of the district boards under the said Acts, were urban district councillors, and no person shall, *ex officio*, be chairman of any of the said vestries.⁶ Provided that the Elections (Hours of Poll) Act, 1885,⁷ shall apply to elections to the said vestries. Provisions as to London vestries and district boards.
48 Vict., c. 10.

(2) Each of the said vestries, except those electing district boards, and each of the said district boards and the local board of Woolwich, shall at their first meeting after the annual election of members elect a chairman for the year, and Section forty-one⁸ of the Metropolis Management Act, 1855, shall apply only in case of the absence of such chairman, and the provisions of this Act with respect to chairmen of urban district councils being justices⁹ shall apply as if the said vestries and boards were urban district councils. 18 & 19 Vict. c. 120.

(3) Nothing in any local and personal¹⁰ Act shall prevent any vestry in the county of London from holding their meeting at such time as may be directed by the vestry.

¹ *See* Section 23 (2).

² *See* Section 23 (1).

³ *See* Section 24 (4) and (5).

⁴ The local government district of Woolwich was constituted under the Public Health Act, 1848, now repealed. It was included in the metropolis by Section 238 Metropolis Management Act, 1855, but for certain purposes only. Being in the metropolis, the Public Health Act, 1875, did not apply to it, and the district therefore occupied a somewhat anomalous position and had to be specially provided for. By the Infectious Disease (Notification) Act, 1889, Section 12, the Local Board were required to appoint a

**Note to
Sec. 31.**

medical officer of health, and all enactments relating to medical officers of health in the administrative County of London were applied to the medical officer of health for Woolwich. By Section 140 Public Health (London) Act, 1891, members of the Woolwich Local Board were made to retire from office on the 15th April in each year, and by the present Act the election of members of that local board is to proceed on the same lines as the election of vestries and urban district councils. Members of vestries and auditors of metropolitan parishes and districts have hitherto been elected as provided by the Metropolis Management Act, 1855 (Sections 1 to 25). In future the provisions of the Local Government Act, 1894, relating to urban district councillors, will apply also to the qualification of electors and elected and the mode of conducting the election of metropolitan vestrymen. Members of district boards in the metropolis will only require to possess the same qualifications as urban district councillors, but members of district boards will still be elected by vestries. Auditors will be chosen for the metropolitan parishes and districts and will require the same qualifications as if they were being chosen as vestrymen. As to the first election of members of the Woolwich Local Board and of London vestrymen and auditors under this Act *see* Section 79 (10); and as to the part to be taken by the London County Council in facilitating first elections *see* Section 80. As to the rules for conducting the election of the persons mentioned in Section 31 *see* Section 48 (4).

⁵ The disqualifications enumerated in Section 46 apply to London vestries, Woolwich Local Board, and vestry auditors. *See* Section 46 (9).

⁶ The rector, vicar, or other minister of the parish will no longer have the right to take the chair at vestry meetings, but a chairman must be elected as provided in sub-section (2) of this section.

⁷ The Election (Hours of Poll) Act, 1885, provides that at every parliamentary or municipal election to which the Act applies, the poll (if any) shall commence at 8 o'clock in the forenoon and be kept open until 8 o'clock in the afternoon of the same day and no longer.

⁸ Section 41 of the Metropolis Management Act, 1855, is as follows:—"Every such board" (*i.e.* district board of works) "shall at every meeting of such board, before proceeding to business, elect a chairman of such meeting, and such chairman, in case of an equality of votes on any question, shall have a second or casting vote."

⁹ *See* Section 22 as to chairmen of district councils being justices of the peace.

¹⁰ For definition of "local and personal Act" *see* Section 75, (p. 180).

Application
to county
boroughs of
provisions as
to transfer of
justices'
powers.

32. The provisions of this Part of this Act respecting the powers, duties, and liabilities of justices out of session, or of quarter sessions,¹ which are transferred to a district council, shall apply to a county borough as if it were an urban district, and the county borough council were a district council.

¹ The provisions referred to are contained in Section 27.

Power to
apply certain
provisions of
Act to urban
districts and
London.

33. (1) The Local Government Board may, on the application of the council of any municipal borough,

including a county borough, or of any other urban district, make an order conferring on that council or some other representative body within the borough or district all or any of the following matters, namely, the appointment of overseers and assistant overseers,¹ the revocation of appointment of assistant overseers,¹ any powers, duties, or liabilities of overseers,² and any powers, duties, or liabilities of a parish council,³ and applying with the necessary modifications the provisions of this Act with reference thereto.

Sec. 33.

(2) Where it appears to the Local Government Board that, by reason of the circumstances connected with any parish in a municipal borough (including a county borough) or other urban district divided into wards, or with the parochial charities of that parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the council⁴ of the borough or district, be properly represented on that body, they may, by their order, provide that such of those trustees as are appointed by the council, or some of them, shall be appointed on the nomination of the councillors elected for the ward or wards comprising such parish or any part of the parish.

(3) Any order under this section may provide for its operation extending either to the whole or to specified parts of the area of the borough or urban district, and may make such provisions as seem necessary for carrying the order into effect.

(4) The order shall not alter the incidence of any rate, and shall make such provisions as may seem necessary and just for the preservation of the existing interests of paid officers.⁵

(5) An order under this section may also be made on the application of any representative body⁶ within a borough or district.

(6) The provisions of this section respecting councils of urban districts shall apply to the administrative county of London⁷ in like manner as if the district of each sanitary authority in that county were an urban district, and the sanitary authority were the council of that district.

(7) The Local Government Board shall consult the Charity Commissioners before making any order under this section with respect to any charity.

¹ See Section 5. Notice of the appointment of an overseer must be given to the guardians of the poor law union within three weeks of the 15th April (Section 50).

² See Section 6.

Note to Sec. 33. ³ For the provisions relating to the powers, duties, and liabilities of a parish council *see* Part I of this Act, pp. 72—104.

⁴ In order to apply sub-section (2) of this section the appropriate powers of Section 14 must be conferred on the urban district council concerned, as provided in sub-section 1 of this section. The Local Government Board may then, by the same or a subsequent order, direct that the trustees to be nominated under this Act of a parochial charity availing, say, in a particular parish of the borough, shall be nominated by the district councillors elected for the division in which that parish is situated.

⁵ Compare the provisions of Section 81, especially subsection 5.

⁶ In some parishes, trustees of parochial charities are annually elected by the inhabitants in vestry. Such trustees would presumably be a representative body within the meaning of sub-section (5).

⁷ *See* definition in note to Section 30.

Supplemental provisions as to control of overseers in urban districts.

34. Where an order of the Local Government Board under this Act confers on the council of an urban district, or some other representative body within the district,¹ either the appointment of overseers and assistant overseers² or the powers, duties, and liabilities of overseers,³ that order or any subsequent order of the Board may confer on such council or body the powers of the vestry under the third and fourth sections of the Poor Rate Assessment and Collection Act, 1869.⁴

32 & 33 Vict., c. 41.

¹ *See* Section 33 (1).

² *See* Section 5.

³ *See* Section 6.

⁴ The 3rd and 4th Sections of the Poor Rate Assessment and Collection Act, 1869, provide as follows:—

“3. In case the rateable value of any hereditament does not exceed twenty pounds, if the hereditament is situate in the Metropolis, or thirteen pounds if situate in any parish wholly or partly within the borough of Liverpool, or ten pounds if situate in any parish wholly or partly within the city of Manchester or the borough of Birmingham, or eight pounds if situate elsewhere, and the owner of such hereditament is willing to enter into an agreement in writing with the overseers to become liable to them for the poor rates assessed in respect of such hereditament, for any term not being less than one year from the date of such agreement, and to pay the poor rates whether the hereditament is occupied or not, the overseers may, subject nevertheless to the control of the vestry, agree with the owner to receive the rates from him, and to allow to him a commission not exceeding twenty-five per cent. on the amount thereof.”

“4. The vestry of any parish may from time to time order that the owners of all rateable hereditaments to which Section three of this Act extends, situate within such parish, shall be rated to the poor rate in respect of such rateable hereditaments, instead of the occupiers, on all rates made after the date of such order; and thereupon and so long as such order shall be in force the following enactments shall have effect:

1. The overseers shall rate the owners instead of the occu-

piers, and shall allow to them an abatement or deduction of fifteen per centum from the amount of the rate. 2. If the owner of one or more such rateable hereditaments shall give notice to the overseers in writing that he is willing to be rated for any term not being less than one year in respect of all such rateable hereditaments of which he is the owner, whether the same be occupied or not, the overseers shall rate such owner accordingly, and allow to him a further abatement or deduction not exceeding fifteen per centum from the amount of the rate during the time he is so rated. 3. The vestry may by resolution rescind any such order after a day to be fixed by them, such day being not less than six months after the passing of such resolution, but the order shall continue in force with respect to all rates made before the date on which the resolution takes effect. Provided that this clause shall not be applicable to any rateable hereditament in which a dwelling-house shall not be included."

**Note to
Sec. 34.**

35. Save as specially provided by this Act, this Part of this Act shall not apply to the administrative county of London¹ or to a county borough.

**Restrictions
on applica-
tion of Act to
London, &c.**

¹ See note to Section 30 for definition of the expression "administrative county of London." As to "county borough" see Local Government Act, 1888, Section 31, and Schedule III of that Act.

The following sections of Part II of this Act apply to the administrative county of London:—

Section 20 (applied to London by Section 30).

Section 22 (applied by Section 31 [2]).

Section 23 (applied by Section 31 [1]).

Sections 30, 31, 33.

Other sections, wholly or in part, applying to London are 46 (9), 48 (4), 79 (10), 80, and 84; and Sections 9 (18), 36 (5), 36 (12), 84, and the following sections of Part II apply to county boroughs:

Section 20 (applied to county boroughs by Section 30).

Section 26 (applied by Section 26 [7]).

Section 27 (applied by Section 32).

Section 28.

Sections 30, 32, 33, 34 (applied by Section 33 [1]).

(See also page 125, note 1.)

PART III.

AREAS AND BOUNDARIES.

PART III.

**Duties and
powers of
county
council with
respect to
areas and
boundaries.**

36. (1) For the purpose of carrying this Act into effect in the case of—

- (a) every parish and rural sanitary district which at the passing of this Act¹⁰ is situate partly within and partly without an administrative county;¹ and
- (b) every parish which at the passing of this Act¹⁰ is situate partly within and partly without a sanitary district;² and
- (c) every rural parish which has a population of less than two hundred;³ and

Sec. 36.

(d) every rural sanitary district which at the passing of this Act¹⁰ has less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district;⁴ and

(e) every rural parish which is co-extensive with a rural sanitary district;⁵ and

every county council shall forthwith take into consideration⁶ every such case within their county, and whether any proposal has or has not been made as mentioned in Section fifty-seven of the Local Government Act, 1888,⁷ shall as soon as practicable, in accordance with that section, cause inquiries to be made and notices given,⁸ and make such orders,⁹ if any, as they deem most suitable for carrying into effect this Act in accordance with the following provisions, namely:—

(i) the whole of each parish, and, unless the county council for special reasons otherwise direct, the whole of each rural district shall be within the same administrative county;¹

(ii) the whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district;² and

(iii) every rural district which will have less than five elected councillors shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.⁴

(2) Where a parish is at the passing of this Act¹⁰ situate in more than one urban district, the parts of the parish in each such district shall, as from the appointed day,¹¹ unless the county council for special reasons otherwise direct,¹² and subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes, in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.¹³

(3) Where a parish is divided by this Act,¹⁴ the county council may by order provide for the application to different parts of that parish of the provisions of this Act with respect to the appointment of trustees or beneficiaries of a charity¹⁵ and for the custody of parish documents,¹⁶ but the order, so far as regards the charity, shall not have any effect until it has received the approval of the Charity Commissioners.

(4) Where a rural parish is co-extensive with a rural sanitary district,¹⁷ then, until the district is united to some other district or districts, and unless the county council otherwise direct, a separate election of a parish

51 & 52 Vict.,
c. 41.

39 & 40 Vict.,
c. 61.

council shall not be held for the parish, but the district council shall, in addition to their own powers, have the powers of, and be deemed to be, the parish council. Sec. 36.

(5) Where an alteration of the boundary of any county or borough seems expedient for any of the purposes mentioned in this section, application shall be made to the Local Government Board for an order under Section fifty-four of the Local Government Act, 1888.¹⁸

(6) Where the alteration of a poor law union seems expedient by reason of any of the provisions of this Act, the county council may, by their order, provide for such alteration in accordance with Section fifty-eight of the Local Government Act, 1888,¹⁸ or otherwise, but this provision shall not affect the powers of the Local Government Board with respect to the alteration of unions.¹⁹

(7) Where an order for the alteration of the boundary of any parish or the division thereof, or the union thereof, or of any part thereof, with another parish is proposed to be made after the appointed day,¹¹ notice thereof shall, a reasonable time²⁰ before it is made, be given to the parish council of that parish, or if there is no parish council, to the parish meeting,²¹ and that parish council or parish meeting, as the case may be, shall have the right to appear at any inquiry held by the county council with reference to the order, and shall be at liberty to petition the Local Government Board against the confirmation of the order.

(8) Where the alteration of the boundary of any parish, or the division thereof or the union thereof or of part thereof with another parish, seems expedient for any of the purposes of this Act, provision for such alteration, division, or union may be made by an order of the county council confirmed by the Local Government Board under Section fifty-seven of the Local Government Act, 1888.¹⁸ 51 & 52 Vict.,
c. 41.

(9) Where a parish is by this Act divided into two or more parishes,¹⁴ those parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was included.

(10) Subject to the provisions of this Act, any order made by a county council in pursuance of this Part of this Act shall be deemed to be an order under Section fifty-seven of the Local Government Act, 1888,¹⁸ and any board of guardians affected by an order shall have the same right of petitioning against that order as is given by that section to any other authority.

(11) Where any of the areas referred to in Section fifty-

Sec. 36. seven of the Local Government Act, 1888,¹⁸ is situate in two or more counties, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee²² appointed by the councils of those counties shall, subject to the terms of delegation,²² be deemed to have and to have always had power to make orders under that section with respect to that area; and where at the passing of this Act a rural sanitary district or parish is situate in more than one county, a joint committee²² of the councils of those counties shall act under this section, and if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee. Provided that any question arising as to the constitution or procedure of any such joint committee shall, if the county councils concerned fail to agree, be determined by the Local Government Board.

(12) Every report made by the Boundary Commissioners²³ under the Local Government Boundaries Act, 1887, shall be laid before the council of any administrative county¹ or borough affected by that report, and before any joint committee of county councils, and it shall be the duty of such councils and joint committees to take such reports into consideration before framing any order under the powers conferred on them under this Act.

50 & 51 Vict.,
c. 61.

(13) Every county council shall, within two years after the passing of this Act, or within such further period as the Local Government Board may allow either generally or with reference to any particular matter, make such orders under this section as they deem necessary for the purpose of bringing this Act into operation, and after the expiration of the said two years or further period the powers of the county council for that purpose shall be transferred to the Local Government Board, who may exercise those powers.²⁴

[As to alterations in parishes rendered necessary by the creation of new boroughs or urban districts, or by the dissolution of districts, *see* Section 54.]

¹ For definition of administrative county *see* note to Section 75.

² *See* Section 1 (3). "County district" is defined in Section 21 (3).

³ *See* Section 1 (1) as to population of parishes which are to have parish councils and parish meetings.

⁴ Prior to the passing of this Act, where, owing to the existence or formation of urban sanitary districts, the number of elective guardians capable of acting and voting as members of the rural

sanitary authority was less than five, the Local Government Board were empowered to nominate persons to make up that number (Public Health Act, 1875, Section 9). In every rural district where at the passing of this Act there are less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district, that district must, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.

**Note to
Sec. 36.**

As to what will happen where a rural sanitary district which on the appointed day (*see* Section 84 [4]), being situate in more than one administrative county, becomes divided into two or more rural districts, so that the number of councillors in any such divided rural district will be less than five, *see* Section 24 (5).

⁵ As to this *see* the provision in subsection (4) of this section.

⁶ *Forthwith take into consideration*: *see* sub-section (13) of this section as to limit of time within which the county council may act.

⁷ The sections of the Local Government Act, 1888, referred to in this section are set out on pp. 134—138.

⁸ *Inquiries and notices*: in their annual report for 1891–2, p. xli, the Local Government Board make the following comment on Section 57 of the Local Government Act, 1888:—“After the requirements of the section, as regards the holding of inquiries and the giving of notices have been complied with, county councils may make orders for alteration of areas and other alterations under the section. These orders, except in cases where the order relates merely to the division of a district into wards, or the alteration of the number of wards, or of the boundaries of a ward, or of the number of members of a sanitary authority, or the apportionment of members among the wards, must be submitted to us for confirmation; and, in confirming any such order, we may make such modifications as we consider necessary for carrying its objects into effect. We are required to confirm the order unless, within three months after notice has been given of its provisions, the sanitary authority of any district affected by it, or one-sixth of the total number of the county electors registered in the district, petition us to disallow the order, in which case we are required by the Act to cause a local inquiry to be made, and to determine whether or not the order shall be confirmed” (Twenty-first Report of the Local Government Board, p. xli). In the same report the Local Government Board state that the majority of the orders of county councils made in 1891–92 altering urban districts, and the whole of those setting up new districts, required modification before they could be confirmed. “These modifications related to such matters as the description of boundaries, the compensation of persons affected by the alterations, the arrangements for the election of the new authorities, and the continuance for a fixed period of existing bye-laws” (*ibid.*, p. xliii). In regard to compensation of existing officers the Local Government Board state (on p. xliii) that in the opinion of the law officers of the Crown the Board are empowered to insert in their confirming order a modification applying the provisions of Section 120 of the Local Government Act, 1888, to officers of any local authority who may suffer pecuniary loss in consequence of the making of the order. Section 120 is set out on p. 187. For Local Government Board orders as to inquiries and notices *see* pp. 401—411.

The Local Government Board are unwilling to confirm an order setting up a new urban district where, in their opinion, the place is not sufficiently populous or urban in character to justify its conversion into an urban district (*ibid.*, p. xliii).

**Note to
Sec. 36.**

Orders made by county councils for dividing districts into wards, or for altering the number of members of a sanitary authority, do not require confirmation by the Local Government Board, but notices of the making of such orders must be given to that Board.

The orders of the Local Government Board as to inquiries and notices under Section 57 Local Government Act, 1888, are set out in the Appendix. The order of 22nd March, 1894, applies only to inquiries and notices during the year 1894; the order of 14th September, 1889, will again come into operation at the beginning of 1895.

⁹ Where any order of a county council alters a local area or name, a copy of the order must be sent to the Local Government Board and Board of Agriculture (Section 71).

¹⁰ The date of the passing of this Act is 5th March, 1894; provision for a parish situate in more than one rural district is made in Section 1 (3).

¹¹ As to the appointed day *see* Section 84 (4).

¹² As to the power of county councils to deal with matters arising out of the alteration of areas made by this Act *see* also Section 69.

¹³ By Section 6 of the Divided Parishes, &c., Act, 1876, every parish constituted under that Act is a parish for all lay and civil purposes to which a parish may be liable or entitled.

¹⁴ *See* Section 1 (3) and Section 36 (1) and (2).

¹⁵ As to appointment of trustees of charities, &c., *see* Section 14 and also Section 33 (2).

¹⁶ As to custody of parish documents *see* Section 17 (7 to 9).

¹⁷ As to the duty of county councils in regard to such parishes *see* sub-section (1) of this section.

¹⁸ These sections of the Local Government Act, 1888, are set out below. *See* also note 8 above.

¹⁹ As to the powers of the Local Government Board with respect to the alteration of unions *see* 4 and 5 William IV, c. 76, s. 32, and 7 and 8 Vict., c. 101, s. 66.

²⁰ As to what would be a reasonable time, compare Article II of the Local Government Board order of 14th September, 1889 (*see* Appendix). At least fourteen clear days' notice should be given, and longer if practicable.

²¹ As to parish meetings in parishes having no parish council *see* Section 19.

²² Provision for the appointment of joint committees of county councils is made in Section 81 of the Local Government Act, 1888. As to the powers of delegation *see* sub-sections (2) to (4) of that section.

²³ The reports (with maps) hitherto issued by the Boundary Commissioners have been published. *See* their general report, dated 5th July, 1888 (Parliamentary paper 279 of 1888).

²⁴ As to the general duty of the county council to bring this Act into operation *see* Section 83. As to altering boundaries of areas for which adoptive Acts have been adopted *see* Section 53 (4).

LOCAL GOVERNMENT ACT, 1888.

Future
alterations of
boundaries.

54. (1) Whenever it is represented by the council of any county or borough to the Local Government Board—

(a) that the alteration of the boundary of any county or borough is desirable; or

Local Government Act, 1888, Sections 54 and 57.

**Note to
Sec. 36.**

- (b) that the union, for all or any of the purposes of this Act, of a county borough with a county is desirable; or
- (c) that the union, for all or any of the purposes of this Act, of any counties or boroughs or the division of any county is desirable; or
- (d) that it is desirable to constitute any borough having a population of not less than fifty thousand into a county borough; or
- (e) that the alteration of the boundary of any electoral division of a county, or of the number of county councillors and electoral divisions in a county, is desirable; or
- (f) that the alteration of any area of local government partly situate in their county or borough is desirable;

the Local Government Board shall, unless for special reasons they think that the representation ought not to be entertained, cause to be made a local inquiry, and may make an order for the proposal contained in such representation, or for such other proposal as they may deem expedient, or may refuse such order, and if they make the order may by such order divide or alter any electoral division.

(2) Provided that in default of such representation by the council of any county or borough before the first day of November one thousand eight hundred and eighty-nine, the Local Government Board may cause such local inquiry to be made, and thereupon may make such order as they may deem expedient.

(3) Provided that if the order alters the boundary of a county or borough, or provides for the union of a county borough with a county, or for the union of any counties or boroughs, or for the division of any county, or for constituting a borough into a county borough, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(4) Where such order alters the boundary of a borough, it may, as consequential upon such alteration, do all or any of the following things, increase or decrease the number of the wards in the borough, and alter the boundaries of such wards, and alter the apportionment of the number of councillors among the wards, and alter the total number of councillors, and in such case, make the proportionate alteration in the number of aldermen.

57.* (1) Whenever a county council is satisfied that a *prima facie* case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things; that is to say—

- (a) the alteration or definition of the boundary thereof;
- (b) the division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish;
- (c) the conversion of any such district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts;

Future alteration of county districts and parishes and wards and future establishment of urban districts.

* After six months no objection can be taken to the legality of any order confirmed by the Local Government Board under this section (Local Government Act, 1894, Section 42).

**Note to
Sec. 36.**

Local Government Act, 1888, Sections 57 and 58.

- (d) the division of an urban district into wards; and
- (e) the alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards;

the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, Education Department, or other Government department as may be prescribed,* and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.

(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards, shall come into operation upon being finally approved by the county council.

(3) In any other case the order shall be submitted to the Local Government Board; and if within [*three months*†] after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one-sixth of the total number of electors in that parish, petition the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not.

(4) If any such petition is not presented, or being presented is withdrawn, the Local Government Board shall confirm the order.

(5) The Local Government Board, on confirming an order, may make such modifications therein as they consider necessary for carrying into effect the objects of the order.

(6) An order under this section, when confirmed by the Local Government Board, shall be forthwith laid upon the table of both Houses of Parliament, if Parliament be then sitting, and, if not, forthwith after the then next meeting of Parliament.

(7) This section shall be in addition to, and not in derogation of, any power of the Local Government Board in respect of the union or division or alteration of parishes.

Additional
power of
Local
Government
Board as to
Unions.

58. The Local Government Board, where it appears expedient so to do with reference to any poor law union which is situate in more than one county instead of dissolving the union may by order provide that the same shall continue to be one union for the purposes of indoor paupers or any of those purposes, and shall be divided into two or more poor law unions for the purpose of outdoor relief, and may by the order make such provisions as seem

* See the orders of Local Government Board set out in the Appendix.

† Now six weeks. See Section 41 Local Government Act, 1894.

*Local Government Act, 1888, Sections 58 and 59.***Note to
Sec. 36.**

expedient for determining all other matters in relation to which such union is to be one union or two or more unions.

59. (1) A scheme or order under this Act may make such administrative and judicial arrangements incidental to or consequential on any alteration of boundaries, authorities, or other matters made by the scheme or order as may seem expedient.

(2) A place which is part of an administrative county for the purposes of this Act shall, subject as in this Act mentioned, form part of that county for all purposes, whether sheriff, lieutenant, custos rotulorum, justices, militia, coroner, or other; Provided that—

(a) Notwithstanding this enactment, each of the entire counties of York, Lincoln, Sussex, Suffolk, Northampton, and Cambridge shall continue to be one county for the said purposes so far as it is one county at the passing of this Act; and

(b) This enactment shall not affect the existing powers or privileges of any city or borough as respects the sheriff, lieutenant, militia, justices, or coroner; but, if any county borough is, at the passing of this Act, a part of any county for any of the above purposes, nothing in this Act shall prevent the same from continuing to be part of that county for that purpose; and

(c) This enactment shall not affect parliamentary elections nor the right to vote at the election of a member to serve in Parliament, nor land tax, tithes, or tithe rentcharge, nor the area within which any bishop, parson, or other ecclesiastical person has any cure of souls or jurisdiction.

(3) For the purposes of parliamentary elections, and of the registration of voters for such elections, the sheriff, clerk of the peace, and council of the county in which any place is comprised at the passing of this Act for the purpose of parliamentary elections shall, save as otherwise provided by the scheme or order, or by the County Electors Act, 1888, or this Act, continue to have the same powers, duties, and liabilities as they would have had if no alteration of boundary had taken place.

51 & 52 Vict.,
c. 10.

(4) Any scheme or order made in pursuance of this Act may, so far as may seem necessary or proper for the purposes of the scheme or order, provide for all or any of the following matters, that is to say,—

(a) may provide for the abolition, restriction, or establishment, or extension of the jurisdiction of any local authority in or over any part of the area affected by the scheme or order, and for the adjustment or alteration of the boundaries of such area, and for the constitution of the local authorities therein, and may deal with the powers and duties of any council, local authorities, quarter sessions, justices of the peace, coroners, sheriff, lieutenant, custos rotulorum, clerk of the peace, and other officer therein, and with the costs of any such authorities, sessions, persons, or officers as aforesaid, and may determine the status of any such area as a component part of any larger area, and provide for the election of representatives in such area, and may extend to any altered area the provisions of any local Act* which were previously in force in a portion of the area; and

* See *Reg. v London County Council* (1893), 2 Q. B. 454: Transfer of disused burial-ground to parish to which it formerly belonged.

**Note to
Sec. 36.**

Local Government Act, 1888, Section 59.

- (b) may make temporary provision for meeting the debts and liabilities of the various authorities affected by the scheme or order, for the management of their property, and for regulating the duties, position, and remuneration of officers affected by the scheme or order, and applying to them the provisions of this Act as to existing officers; and
 - (c) may provide for the transfer of any writs, process, records, and documents relating to or to be executed in any part of the area affected by the scheme or order, and for determining questions arising from such transfer; and
 - (d) may provide for all matters which appear necessary or proper for bringing into operation and giving full effect to the scheme or order; and
 - (e) may adjust any property, debts, and liabilities affected by the scheme or order.
- (5) Where an alteration of boundaries of a county is made by this Act an order for any of the above-mentioned matters may, if it appears to the Local Government Board desirable, be made by that Board, but such order, if petitioned against by any council, sessions, or local authority affected thereby, within three months after notice of such order is given in accordance with this Act, shall be provisional only, unless the petition is withdrawn or the order is confirmed by Parliament.
- (6) A scheme or order may be made for amending any scheme or order previously made in pursuance of this Act, and may be made by the same authority and after the same procedure as the original scheme or order. Where a provision of this Act respecting a scheme or order requires the scheme or order to be laid before Parliament, or to be confirmed by Parliament, either in every case or if it is petitioned against, such scheme or order may amend any local and personal Act.

Provision as to parishes having parts with defined boundaries.

37. Where it is proved to the satisfaction of the county council that any part of a parish has a defined boundary,¹ and has any property or rights distinct from the rest of the parish,² the county council may order that the consent of a parish meeting held for that part of the parish shall be required for any such act or class of acts of the parish council affecting the said property or rights as is specified in the order.

¹ A question as to the meaning of the words "known and defined boundary" arose in *Reg. v. Grasmere Local Board* (L. R. 8 Q. B. 227; 42 L. J. Q. B. 131), a case under the Local Government Act, 1858. In that case Archibald J. said: "To attribute to the words 'known and defined,' their literal meaning seems to accord best with convenience and with the object which the legislature had in view; and we think it therefore sufficient if there be an actual known or defined boundary, or one which is physical, visible, and notorious, so that there may be no mistake as to the limits within which the Act is to be applied."

² Compare the provisions in Sections 49, 53, and 56 (2).

Orders for grouping parishes and dissolving groups.

38. (1) Where parishes are grouped,¹ the grouping order shall make the necessary provisions for the name of the group,² for the parish meetings in each of the

Sec. 38.

grouped parishes, and for the election in manner provided by this Act³ of separate representatives of each parish on the parish council, and may provide for the consent of the parish meeting of a parish to any particular act of the parish council, and for any other adaptations of this Act to the group of parishes, or to the parish meetings in the group.⁴

(2) Where parishes are grouped the whole area under each parish council shall, unless the county council for special reasons otherwise direct, be within the same administrative county⁵ and county district.⁶

(3) Where parishes are grouped, the grouping order shall provide for the application of the provisions of this Act with respect to the appointment of trustees and beneficiaries of a charity,⁷ and the custody of documents,⁸ so as to preserve the separate rights of each parish.

(4) The parish meeting of any parish may apply to the county council for a grouping order respecting that parish, and, if the parish has a less population than two hundred, for a parish council, and any such application shall be forthwith taken into consideration by the county council.⁹

(5) The county council may, on the application of the council for any group of parishes or of the parish meeting for any parish included in a group of parishes, make an order dissolving the group, and shall by the order make such provision as appears necessary for the election of parish councils of the parishes in the group and for the adjustment¹⁰ of property, rights, and liabilities as between separate parishes and the group.

¹ See Section 1 (1) (b) as to the circumstances in which parishes may be grouped.

² See Section 55 as to names of parishes and groups.

³ See Section 3 (6).

⁴ The grouping order should specify the number of councillors to constitute the parish council for the group, and the number to be elected from each parish. See Section 3 (1).

⁵ For definition of "administrative county" see note to Section 75.

⁶ For definition of "county district" see Section 21.

⁷ See Section 14 as to trustees, &c., of charities.

⁸ See Section 17 (7) to (9) as to custody of documents.

⁹ Compare the provisions of section 1 (1) as to the establishment of parish councils for parishes having a population of 100 and upwards.

¹⁰ As to adjustment of property, &c., see Section 68.

39. (1) Where the population of a parish¹ not having a separate parish council increases so as to justify the election of such council, the parish meeting

Provisions
for increase
and decrease
of population.

Sec. 39. may petition the county council, and the county council, if they think proper, may order the election of a parish council in that parish, and shall by the order make such provision as appears necessary for separating the parish from any group of parishes in which it is included, and for the alteration of the parish council of the group, and for the adjustment² of property, rights, and liabilities as between the group and the parish with a separate parish council.

(2) Where the population of a parish, according to the last published census for the time being, is less than two hundred, the parish meeting may petition the county council, and the county council, if they think proper, may order the dissolution of the parish council, and from and after the date of the order this Act shall apply to that parish as to a parish not having a parish council. The order shall make such provision as appears necessary for carrying it into effect, and for the disposal and adjustment² of the property, rights, and liabilities of the parish council. Where a petition for such an order is rejected, another petition for the same purpose may not be presented within two years from the presentation of the previous petition.

¹ Compare the provisions of Section 1 (1).

² As to adjustment of property, &c., see Section 68.

Certain orders of county council not to require confirmation.

40. A grouping order, and an order establishing or dissolving a parish council, or dissolving a group of parishes, and an order relating to the custody of parish documents or requiring the approval of the Charity Commissioners, and an order requiring the consent of the parish meeting for any part of the parish to any act or class of acts of the parish council, shall not require submission to or confirmation by the Local Government Board.

Reduction of time for appealing against county council orders.

41. The time for petitioning against an order under Section fifty-seven¹ of the Local Government Act, 1888, shall be six weeks instead of three months after the notice referred to in sub-section three of that section.

¹ This section is set out in the note to Section 36 (p. 135).

Validity of county council orders.

42. When an order under Section fifty-seven¹ of the Local Government Act, 1888, has been confirmed by the Local Government Board, such order shall at the expiration of six months from that confirmation be presumed to have been duly made, and to be within the powers of that section, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

¹ This section is set out in the note to Section 36 (p. 135).

PART IV.

Sec. 43.

SUPPLEMENTAL.

PART IV.

Parish Meetings and Elections.

43. For the purposes of this Act a woman shall not be disqualified by marriage for being on any local government register of electors,¹ or for being an elector of any local authority, provided that a husband and wife shall not both be qualified in respect of the same property.²

Removal of
disqualifica-
tion of
married
women.

¹ For definition of "local government register of electors" see note to the next section.

² This section does not affect the decision of the Court of Appeal in *Beresford-Hope v. Lady Sandhurst* (23 Q. B. D. 79; 58 L. J. Q. B. 316; 61 L. T. 150; 37 W. R. 548; 5 T. L. R. 472; 53 J. P. 805). In that case the court held that women could not be elected as members of a county council. But women, married or single, may be elected members of boards of guardians and of parish and urban and rural district councils (see Sections 3 [2], 20 [2], 23 [2], and 24 [4]).

44. (1) The local government register of electors and the parliamentary register of electors,¹ so far as they relate to a parish shall, together, form the register of the parochial electors of the parish; and any person whose name is not in that register shall not be entitled to attend a meeting or vote as a parochial elector, and any person whose name is in that register shall be entitled to attend a meeting and vote as a parochial elector unless prohibited from voting by this or any other Act of Parliament.²

Register of
parochial
electors.

(2) Where the parish is in a parliamentary borough, such portion of the parliamentary register of electors for the county as contains the names of persons registered in respect of the ownership of any property in the parish shall be deemed to form part of the parliamentary register of electors for the parish within the meaning of this section.

(3) The lists and register of electors in any parish shall be framed in parts for wards of urban districts and parishes in such manner that they may be conveniently used as lists for polling at elections for any such wards.

(4) Nothing in any Act shall prevent a person, if duly qualified, from being registered in more than one register of parochial electors.

(5) Where in that portion of the parliamentary register of electors¹ which relates to a parish a person is entered to vote in a polling district other than the

Sec. 44. district comprising the parish, such person shall be entitled to vote as a parochial elector for that parish, and in addition to an asterisk there shall be placed against his name a number consecutive with the other numbers in the list.

(6) Where the revising barrister in any list of voters for a parish would—

51 Vict., c. 10.

(a) In pursuance of Section seven of the County Electors Act, 1888, place an asterisk or other mark against the name of any person; or

(b) In pursuance of Section four of the Registration Act, 1885, erase the name of any person otherwise than by reason of that name appearing more than once in the lists for the same parish; or

41 & 42 Vict.,
c. 26.
48 & 49 Vict.,
c. 15.

(c) in pursuance of Section twenty-eight of the Parliamentary and Municipal Registration Act, 1878, as amended by Section five of the Registration Act, 1885, place against the name of a person a note to the effect that such person is not entitled to vote in respect of the qualification contained in the list,

the revising barrister shall, instead of placing that mark or note, or erasing the name, place against the name, if the person is entitled to vote in respect of that entry as a county elector or burgess, a mark signifying that his name should be printed in division three of the list, or if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to be registered as a parochial elector, and the name so marked shall not be printed in the parliamentary register of electors, but shall be printed, as the case requires, either in division three of the local government register of electors, or in a separate list of parochial electors.

(7) Where the name of a person is entered both in the ownership list and in the occupation list of voters in the same parish, and the revising barrister places against that name a mark or note signifying that the name should be printed in division three of the lists, an asterisk or other mark shall be there printed against the name, and such person shall not be entitled to vote as a parochial elector in respect of that entry.

(8) Such separate list shall form part of the register of parochial electors of the parish, and shall be printed at the end of the other lists of electors for the parish, and the names shall be numbered consecutively with the other names on those lists, and the law relating to

the register of electors shall, with the necessary modifications, apply accordingly, and the lists shall, for the purposes of this Act, be deemed to be part of such register. Sec. 44.

(9) Any person may claim for the purpose of having his name entered in the parochial electors list, and the law relating to claims to be entered in lists of voters shall apply.

(10) The clerk of the county council or town clerk, as the case may be, shall, in printing the lists returned to him by the revising barrister, do everything that is necessary for carrying into effect the provisions of this section with respect to the persons whose names are marked by the revising barrister in pursuance of this section.

See also note to Section 46.

¹ By Section 17 of the Interpretation Act, 1889, the expression "local government register of electors" means "as respects an administrative county in England or Wales other than a county borough, the county register, and as respects a county borough or other municipal borough, the burgess roll;" and the expression "parliamentary register of electors" means a "register of persons entitled to vote at any parliamentary election."

PAROCHIAL ELECTORS.

The following persons, being of full age (21), and not being subject to any disqualification, are entitled to be registered as voters in the PARLIAMENTARY REGISTER OF ELECTORS:—

- (1) Owners of freehold estate in fee simple or fee tail of the value of 40s. per annum.
- (2) Owners of an estate for life or for lives, if of the value of 40s., but less than £5 per annum, provided the owner either actually and bonâ fide occupies the premises, or having acquired the estate since 7th June, 1832 (2 Wm. IV, c. 45), acquired it by marriage, marriage settlement, devise, or promotion to a benefice or office.
- (3) Owners of an estate for life or lives, of any tenure whatever, of the value of £5 per annum.
- (4) Lessees (and their assignees) of property of the value of £5 per annum for a term not originally less than 60 years; and of the value of £50 per annum where the original term was over 20 years, but under 60; also sub-lessees of the above actually occupying.
- (5) Occupiers (resident or non-resident) of lands or tenements of the clear yearly value (*i.e.* gross estimated rental) of £10.
- (6) Every inhabitant occupier of a dwelling-house (or part of a house separately occupied as a dwelling) provided the tenement is one in respect of which the occupier (or some other person) is rated and the rates have been paid.

The occupier must have been in occupation on the last day of July in the year of registration and during the whole of the preceding twelve calendar months. The rates up to the preceding 5th January must have been paid on or before the 20th July.

The rating qualification does not attach to dwelling-houses which are Crown property.

**Note to
Sec. 44.**

SERVICE FRANCHISE.

- 48 Vict., c. 3, s. 3. Where a man himself inhabits any dwelling-house by virtue of any office, service, or employment, and the dwelling-house is not inhabited by any person under whom such man serves in such office service or employment, he is deemed for the purposes of the Representation of the People Acts to be an inhabitant occupier of such dwelling-house as a tenant.
- 48 Vict., c. 3, s. 9 (8). If another person is rated or liable to be rated for such dwelling-house, the rating of such other shall for the purposes of the said Acts be deemed to be that of the inhabitant occupier.

LODGERS.

- (7) Every lodger who for a year preceding the last day of July in the year of registration has occupied lodgings which are of a clear yearly value, if let unfurnished, of £10 or upwards. "Lodgings" includes any apartments or place of residence, whether furnished or unfurnished, in a dwelling-house (41 and 42 Vict., c. 26, s. 5).

Every person is entitled to be registered as a **LOCAL GOVERNMENT ELECTOR** for a parish who is qualified as follows:

- (a) is of full age; and
- (b) is on the 15th July in any year, and has been during the whole of the then last preceding twelve months, in occupation, joint or several, of any house, warehouse, counting-house, shop, or other building (hereafter referred to as the qualifying property) in the county in which the parish is situated; and
- (c) has during the whole of those twelve months resided in the county in which the parish is situated, or within seven miles thereof; and
- (d) has been rated, or some one else must have been rated, in respect of the qualifying property to all poor rates made during those twelve months for the parish wherein the property is situated; and
- (e) on or before the 20th of the same July paid all such rates as have become payable in respect of the qualifying property up to the then last preceding 5th January (County Electors Act, 1888, Section 2; Municipal Corporation Act, 1882, Section 9); and
- (f) occupiers, resident or non-resident, of lands or tenements of the clear yearly value (*i. e.* gross estimated rental) of £10 (County Electors Act, 1888, Section 3).

But no person is entitled to be so registered who is

- (a) an alien (but *see* Naturalisation Act, 1870);
- (b) who has within the twelve months aforesaid received union or parochial relief or alms;
- (c) who is disentitled under any Act of Parliament (M. C. Act, 1882, Section 9).

The following persons are disqualified from voting at municipal or parliamentary elections:

(1) Aliens.

But aliens may vote if they have been naturalised pursuant to the Naturalisation Act, 1870, or if they have become "denizens," *i. e.* persons who have obtained from the Crown

letters patent making them British subjects. (*See also note to Section 46.*)

**Note to
Sec. 44.**

- (2) Infants, *i. e.* persons under twenty-one years of age. That age is attained on the day preceding the 21st anniversary of the person's birth. Such person may give a valid vote at any time during such preceding day.
- (3) Idiots.
- (4) Lunatics.
- (5) Persons employed for reward on behalf of any candidate within six months of or during the election as agent, canvasser, clerk, or messenger (30 and 31 Vict., c. 102, s. 11).
- (6) Persons employed for reward on behalf of any candidate for any purposes of the election as agent, clerk, or messenger (30 and 36 Vict., c. 33, s. 25).
- (7) Election agents, sub-agents, polling agents, clerks, and messengers may not vote though registered (46 and 47 Vict., c. 51, Sch. I, Part I; 47 and 48 Vict., c. 70, s. 13).
- (8) Persons convicted of treason or felony; until they have suffered their punishment or received a free pardon (33 and 34 Vict., c. 23, s. 2).
- (9) Persons convicted of corrupt practices at any parliamentary, municipal, local board, improvement commissioners, poor law guardians, or school board election (47 and 48 Vict., c. 70, s. 36) are incapable of voting for seven years from date of conviction (46 and 47 Vict., c. 51, s. 6; 47 and 48 Vict., c. 70, s. 2).
- (10) Persons convicted of illegal practices at any such election are incapable for five years of voting at any election within the place where the offence was committed (46 and 47 Vict., c. 51, s. 10; 47 and 48 Vict., c. 70, s. 7).

It is the duty of the registration officer in every county and borough to make out every year and send to the overseers of every parish within his county or borough, lists of voters incapacitated for voting by reason of corrupt or illegal practices. Persons on that list should not be registered as voters. (46 and 47 Vict., c. 51, s. 39; 47 and 48 Vict., c. 70, s. 24).

- (11) Peers may not vote at parliamentary elections.
- (12) Women may vote at municipal elections but not at parliamentary elections.
- (13) The returning officer may not vote unless there is an equality of votes for each candidate. In that case he may vote if his name is on the register.
- (14) No person is entitled to be registered in any year as a voter for any county, city, or borough who has within twelve calendar months next previous to the 15th July in such year, received parochial relief or other alms, which by the law of Parliament disqualifies from voting (30 and 31 Vict., c. 102, s. 40; 48 Vict., c. 15, s. 12).

Exceptions.—The following do not disqualify:

Payment of children's school fees by guardians (39 and 40 Vict., c. 79, s. 10).

Vaccination by the public vaccinator (30 and 31 Vict., c. 84, s. 26).

Treatment in a hospital provided by Metropolitan Asylums Board (46 and 47 Vict., c. 35, s. 7; 52 and 53 Vict., c. 67): or in one provided by a county council under the Isolation Hospitals Act, 1893.

**Note to
Sec. 44.**

By the Medical Relief Disqualification Removal Act, 1885, Section 2 (1)—Where a person has in any part of the United Kingdom received for himself, or for any member of his family, any medical or surgical assistance, or any medicine at the expense of any poor rate, such person shall not by reason thereof be deprived of any right to be registered or to vote, either (a) as a parliamentary voter; or (b) as a voter at any municipal election; or (c) as a burgess; or (d) as a voter at any election to an office under the provisions of any statute; but nothing in this section shall apply to the election of any guardian of the poor, or of any other body acting in the distribution of relief to the poor from the poor rate.

Parochial relief to a father is not relief to a son so as to disqualify the son. *Reg. v. Ireland* (L. R. 3 Q. B., 130; 9 B. and S., 19; 37 L. J. Q. B. 73; 17 L. T., 466).

Supple-
mental pro-
visions as to
parish meet-
ings.

45. (1) Subject to the provisions of this Act,¹ parish meetings shall be held on such days and at such times and places as may be fixed by the parish council, or, if there is no parish council,¹ by the chairman of the parish meeting.

(2) If the chairman of the parish council is present at a parish meeting and is not a candidate for election at the meeting, he shall, save as otherwise provided by this Act,² be the chairman of the meeting.

(3) The chairman of the parish council, or any two parish councillors, or the chairman of the parish meeting,³ or any six parochial electors,⁴ may at any time convene a parish meeting.⁵

¹ See Section 2 (3) and note; Section 78; and the rules in Schedule I, Part I. As regards parishes not having a parish council see also Section 19. As to place of meeting, at school-rooms or public-houses, see Sections 4 and 61.

² See Section 2 (4) and note thereto; also Schedule I, Part I (10). As to disqualifications for being chairman of a parish council see the following section.

³ *I. e.* in parishes not having a parish council.

⁴ For definition of parochial electors see Sections 2 (1) and 44.

⁵ As to the dates of meetings, the mode of convening them, and the notices to be given, see Schedule I, Part I, rules 1—3. As to the mode of giving public notice, see Section 51 and note.

Disquali-
fications for
parish or
district
council.

46. (1) A person shall be disqualified for being elected or being a member or chairman of a council of a parish or of a district other than a borough or of a board of guardians if he—

(a) is an infant¹ or an alien;² or

(b) has within twelve months before his election, or since his election, received union or parochial relief;³ or

Sec. 46.

- (c) has, within five years before his election or since his election, been convicted either on indictment or summarily of any crime,⁴ and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, been adjudged bankrupt, or made a composition or arrangement with his creditors;⁵ or
- (d) holds any paid office under the parish council or district council or board of guardians, as the case may be; or
- (e) is concerned in any bargain or contract⁶ entered into with the council or board, or participates in the profit of any such bargain or contract or of any work done under the authority of the council or board.

(2) Provided that a person shall not be disqualified for being elected or being a member or chairman of any such council or board by reason of being interested—

- (a) in the sale or lease of any lands or in any loan of money to the council or board, or in any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood; or
- (b) in any newspaper in which any advertisement relating to the affairs of the council or board is inserted; or
- (c) in any contract with the council or board as a shareholder in any joint stock company; but he shall not vote at any meeting of the council or board on any question in which such company are interested, except that in the case of a water company or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the county council.

(3) Where a person who is a parish councillor, or is a candidate for election as a parish councillor, is concerned in any such bargain or contract, or participates in any such profit, as would disqualify him for being a parish councillor, the disqualification may be removed by the county council if they are of opinion that such removal will be beneficial to the parish.

(4) Where a person is disqualified by being adjudged

Sec. 46. bankrupt or making a composition or arrangement with his creditors, the disqualification shall cease, in case of bankruptcy, when the adjudication is annulled, or when he obtains his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part, and, in case of composition or arrangement, on payment of his debts in full.

(5) A person disqualified for being a guardian shall also be disqualified for being a rural district councillor.

(6) If a member of a council of a parish, or of a district other than a borough, or of a board of guardians, is absent from meetings of the council or board for more than six months consecutively, except in case of illness or for some reason approved by the council or board, his office shall on the expiration of those months become vacant.⁷

(7) Where a member of a council or board of guardians becomes disqualified for holding office, or vacates his seat for absence, the council or board shall forthwith declare the office to be vacant, and signify the same by notice signed by three members and countersigned by the clerk of the council or board, and notified in such manner as the council or board direct, and the office shall thereupon become vacant.

(8) If any person acts when disqualified, or votes when prohibited under this section, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds.⁸

(9) This section shall apply in the case of any authority whose members are elected in accordance with this Act⁹ in like manner as if that authority were a district council, and in the case of London auditors as if they were members of a district council.

See also note to Section 44.

¹ An infant is a person under twenty-one years of age. That age is attained on the day preceding the twenty-first anniversary of the person's birth.

² Aliens: this expression does not include persons who have been naturalised pursuant to the Naturalisation Act, 1870; or who have become "denizens," *i.e.* persons who have obtained from the Crown letters patent making them British subjects. Persons born in Hanover before 1837, and not naturalised, are aliens though resident in the United Kingdom. In *re* Stepney election petition: *Isaacson v. Durant* (17 Q. B. D. 54).

³ The following do not disqualify:

Payment, by board of guardians, of school fees of children of poor parents (Elementary Education Act, 1876, Section 10).

Vaccination at the public expense by a public vaccinator (Vaccination Act, 1867, Section 26).

Treatment in a hospital of the Metropolitan Asylums Board (46 and 47 Vict., c. 35, s. 7; 52 and 53 Vict., c. 67) or in a hospital provided by a county council under the Isolation Hospitals Act, 1893.

Note to
Sec. 46.

At a time when great distress prevailed certain men had been employed by a board of guardians of the union in which they resided to break stones, and had received payment for their work. The payments were not proportionate to the work done, but to the wants of each man employed and had varied according to the number of children belonging to such men: It was held that the payments constituted relief given to the persons employed. *Margarill v. Overseers, &c., of Whitehaven* (16 Q. B. D. 242; 55 L. J. Q. B. 38; 53 L. T. 667; 34 W. R. 275; 49 J. P. 743).

⁴ In *Conybeare v. London School Board* (1891), 1 Q. B. 118, the Court gave the term "crime" a wide interpretation. A member of an English school board was imprisoned in Ireland by a Court of Summary Jurisdiction under the Criminal Law and Procedure (Ireland) Act, 1887, for "unlawfully taking part in a criminal conspiracy to interfere with the administration of the law" in a proclaimed district in Ireland: Held that the member had been punished with imprisonment for a crime within the meaning of Schedule II (1) (14) of the Elementary Education Act, 1870, and that his office was consequently vacant.

⁵ As to disqualification from bankruptcy see *Hardwicke v. Brown* (L. R. 8 C. P. 406; 28 L. T. 502; 37 J. P. 407). *Leftley v. Monington* (L. R. 4 Ex. D. 307; 48 L. J. Ex. 543; 40 L. T. 850). In *Bourke v. Nutt* (1894), 1 Q. B. 725; 42 W. R. 388, the C. A. (Lord Esher dissenting) held that an undischarged bankrupt under the Act of 1869 was not disqualified by the Bankruptcy Act, 1883, Section 32, from being a member of one of the offices mentioned in that section.

See also sub-section (4), below, and note to Section 44. As to composition with creditors, compare *Reg. v. Cooban* (18 Q. B. D. 269; 56 L. J. M. C. 33; 51 J. P. 500).

⁶ The following cases decided on other statutes relate to the question of being concerned in contracts with a local authority.

Partner of guardian supplied goods to relieving officer: Guardian convicted. *Davies v. Harvey* (L. R. 9 Q. B. 433; 43 L. J. M. C. 121; 30 L. T. 629; 38 J. P. 661).

Contractor not eligible though contract (unperformed) had been assigned to his late partner. *Cox v. Ambrose* (60 L. J. Q. B. 114).

Member interested in contract between his brother and the board held liable to penalty. *Hunnings v. Williamson* (11 Q. B. D. 533; 49 L. T. 361; 48 J. P. 132).

Goods bought at member's shop on behalf of board, he not being present, does not disqualify. *Lewis v. Carr* (L. R. 1 Ex. D. 484; 46 L. J. Ex. 314; 40 J. P. 692).

Member of local board employed by a contractor with the board held to be "concerned" in the contract. *Tomkins v. Joliffe* (51 J. P. 247). *Nutton v. Wilson* (22 Q. B. D. 744; 58 L. J. Q. B. 443; 37 W. R. 522; 5 T. L. R. 439; 53 J. P. 644).

Lessee of a board's sewage farm is not disqualified for being elected to the board. *Reg. v. Gaskarth* (5 Q. B. D. 321; 49 L. J. Q. B. 509; 44 J. P. 507).

In *Charlesworth v. Rudgard* (4 L. J. Ex. 89), under a Local Act, an action was brought against a commissioner for acting as

Note to Sec. 46. such whilst interested: Held that proof of the defendant's speaking in favour of a footpath opposite his house was evidence on which a jury might find that he acted as commissioner whilst interested.

⁷ Under a corresponding provision under the Education Act, 1870 (Sched. II, Part I, s. 14), it was held that a member of a school board who ceased to be a member, by reason of six successive months' absence from the meetings of the board without sufficient excuse, was not permanently disqualified for the office, but was re-eligible at any succeeding [triennial] election of members of the board. *Reg. v. Turmine*, L. R. 4 Q. B. D. 79; 48 L. J. Q. B. 79; 39 L. T. 255; 43 J. P. 6.

Penalty for acting when disqualified, although election not questioned for twelve months. *De Souza v. Cobden* (1891), 1 Q. B. 687; 60 L. J. Q. B. 533; 65 L. T. 130; 55 J. P. 565.

⁸ See cases cited above under sub-section 1 (e).

⁹ This applies to London vestrymen and members of the Woolwich Local Board (Section 31).

Supplemen-
tal provisions
as to parish
councils.

47. (1) If at the annual election of parish councillors¹ any vacancies are not filled by election, such number of the retiring councillors as are not re-elected, and are required to fill the vacancies, shall, if willing, continue to hold office. The councillors so to continue shall be those who were highest on the poll at the previous election, or if the numbers were equal or there was no poll, as may be determined by the parish meeting,² or if not so determined, by the chairman of the parish council.

(2) A retiring parish councillor or chairman of a parish council or parish meeting shall be re-eligible.

(3) A parish councillor may, by notice in writing to the chairman of the council, resign³ his office, and a chairman of a parish council or parish meeting may resign his chairmanship by notice in writing to the council or meeting.

(4) A casual vacancy among parish councillors or in the office of chairman of the council shall be filled by the parish council, and where there is no parish council, a casual vacancy in the office of chairman of the parish meeting shall be filled by the parish meeting, and the person elected shall retire from office at the time when the vacating councillor or chairman would have retired.⁴

(5) If any parish council become unable to act by reason of a want of councillors, whether from failure to elect or otherwise, the county council may order a new election, and may by order make such provision as seems expedient for authorising any person to act temporarily in the place of the parish council and of the chairman thereof.

¹ See Sections 3 and 48.

² *I.e.* by the parish meeting for the annual election of parish councillors.

Note to
Sec. 47.

³ Under the Municipal Corporations Act, 1882, Section 36—which enacts that a person elected to a corporate office may at any time, by writing signed by him and delivered to the town clerk, resign the office, on payment of the fine provided for non-acceptance thereof,—the resignation is completed by the delivery of the writing to the town clerk and the payment of the fine, and cannot afterwards, even with the consent of the corporation, be withdrawn. *Reg. v. Wigan (Mayor, &c.)*, 14 Q. B. D. 908; 54 L. J. Q. B. 338; 52 L. T. 435; 49 J. P. 372.

⁴ *I.e.* on the 15th April following his appointment (Section 3 [4]).

48. (1) The election of a parish councillor shall be at a parish meeting,¹ or at a poll consequent thereon.

Supple-
mental pro-
visions as to
elections,
polls, and
tenure of
office.

(2) Rules framed under this Act² by the Local Government Board in relation to elections shall, notwithstanding anything in any other Act, have effect as enacted in this Act, and shall provide, amongst other things—

- (i) for every candidate being nominated in writing by two parochial electors as proposer and seconder and no more;
- (ii) for preventing an elector at an election for a union or for a district not a borough from subscribing a nomination paper or voting in more than one parish or other area in the union or district;
- (iii) for preventing an elector at an election for a parish divided into parish wards from subscribing a nomination paper or voting for more than one ward;
- (iv) for fixing or enabling the county council to fix the day of the poll and the hours during which the poll is to be kept open, so, however, that the poll shall always be open between the hours of six and eight in the evening;³
- (v) for the polls at elections held at the same date and in the same area being taken together, except where this is impracticable;
- (vi) for the appointment of returning officers for the elections.

(3) At every election regulated by rules framed under this Act, the poll shall be taken by ballot, and the Ballot Act, 1872, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and Sections seventy-four and seventy-five and Part IV of the Municipal Corporations Act, 1882, as amended by the

35 & 36 Vict.,
c. 33.
47 & 48 Vict.,
c. 70.
45 & 46 Vict.,
c. 50.

Sec. 48. last-mentioned Act (including the penal provisions of those Acts) shall, subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election. Provided that—

- (a) Section six of the Ballot Act, 1872, shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes ; and
- (b) Section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall apply as if the election were an election mentioned in the First Schedule to that Act.
- (4) The provisions of the Municipal Corporations Act, 1882, and the enactments amending the same, with respect to the expenses of elections of councillors of a borough,⁴ and to the acceptance of office, resignation, re-eligibility of holders of office, and the filling of casual vacancies,⁴ and Section fifty-six of that Act, shall, subject to the adaptations, alterations, and exceptions made by the said rules, apply in the case of guardians and of district councillors of a county district not a borough, and of members of the local board of Woolwich, and of a vestry under the Metropolis Management Acts, 1355 to 1890, and any Act amending the same. Provided that—
 - (a) the provisions as to resignation shall not apply to guardians, and district councillors of a rural district shall be in the same position with respect to resignation as members of a board of guardians ; and
 - (b) nothing in the enactments applied by this section shall authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election ; and
 - (c) the rules may provide for the incidence of the charge for the expenses of the elections of guardians being the same as heretofore.
- (5) If any difficulty arises as respects the election of any individual councillor or guardian, or member of any such local board or vestry as aforesaid, or auditor, and there is no provision for holding another election, the county council may order a new election to be held and

give such directions as may be necessary for the purpose of holding the election. Sec. 48.

(6) Any ballot boxes, fittings, and compartments provided by or belonging to any public authority, for any election (whether parliamentary, county council, municipal, school board, or other), shall, on request, and if not required for immediate use by the said authority, be lent to the returning officer for an election under this Act, upon such conditions and either free of charge or, except in the prescribed cases, for such reasonable charge as may be prescribed.

(7) The expenses of any election under this Act shall not exceed the scale fixed by the county council, and if at the beginning of one month before the first election under this Act⁵ a county council have not framed any such scale for their county, the Local Government Board may frame a scale for the county, and the scale so framed shall apply to the first election, and shall have effect as if it had been made by the county council, but shall not be alterable until after the first election.

(8) This section shall, subject to any adaptations made by the said rules, apply in the case of every poll consequent on a parish meeting, as if it were a poll for the election of parish councillors.

The statutes mentioned in this section are too numerous to be set out in the present work. They will be found in 'Rogers on Elections,' and in other books specially dealing with election law. They must be read in connection with the rules for elections framed under the present Act by the Local Government Board.

¹ The first subsection applies only to the annual elections of parish councillors. Casual vacancies among parish councillors are to be filled up by the parish council. *See* Section 47 (4) and Sched. I, Part 2, r. 2.

² The regulations of the Local Government Board issued up to the present time are printed in the Appendix.

³ In elections of London vestrymen, the hours of poll are regulated by the Elections (Hours of Poll) Act, 1884. *See* Section 31 (1) and note.

⁴ As to the expenses of elections of councillors of a borough, *see* Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 5. As to the acceptance of office, resignation, re-eligibility of holders of office, and the filling of casual vacancies, *see* Municipal Corporations Act, 1882, Sections 35 to 37 and Sections 40 and 66.

⁵ As to first elections under this Act *see* Section 84 (1).

49. Where a parish meeting is required or authorised in pursuance of this Act to be held for a ward or other part of a parish,¹ then—

Provision as to parish meeting for part of parish.

(a) the persons entitled to attend and vote at the meeting, or at any poll consequent thereon,² shall be the parochial electors³ registered in

Sec. 49. respect of qualifications in that ward or part; and

- (b) the provisions of this Act with respect to parish meetings for the whole of a parish,⁴ including the provisions with respect to the convening of a parish meeting by parochial electors,⁵ shall apply as if the ward or part were the whole parish.

¹ See Sections 7 (4), 18, 37, 53, 56 (2), as to parish meetings for parts of parishes.

² See Section 48 (8) as to polls.

³ For definition of parochial electors see Sections 44 and 75 (2).

⁴ See Sections 2 and 45 and Schedule I, Part 1.

⁵ See Section 45 (3); any six parochial electors may at any time convene a parish meeting.

Supple-
mental
provisions as
to overseers.

50. If, in the case of a rural parish or of any urban parish in respect to which the power of appointing overseers has been transferred under this Act,¹ notice in the prescribed² form of the appointment of overseers is not received by the guardians of the poor law union comprising the parish within three weeks after the fifteenth day of April, or after the occurrence of a vacancy in the office of overseer, as the case may be, the guardians shall make the appointment or fill the vacancy, and any overseer appointed by the guardians shall supersede any overseer previously appointed whose appointment has not been notified. Any such notice³ shall be admissible as evidence that the appointment has been duly made.

¹ The power referred to is given by Sections 5 and 33. In the ordinary course the appointment of overseers is to be made by parish councils at their annual meetings, which are to be held within seven days after the 15th April in each year.

² *I. e.* prescribed by the Local Government Board.

³ *I. e.* any notice of the appointment of overseer given to the guardians in the form prescribed by the Local Government Board.

Parish and District Councils.

Public
notices.

51. A public notice given by a parish council for the purposes of this Act, or otherwise for the execution of their duties, and a public notice of a parish meeting,¹ shall be given in the manner required for giving notice of vestry meetings, and by posting the notice in some conspicuous place or places within the parish, and in such other manner (if any) as appears to the council or to the persons convening the meeting desirable for giving publicity to the notice.

[As to the notice to be given of the disqualification of a member

of a council or board of guardians, or of the occurrence of a vacancy in the council or board through absence, *see* Section 46 (7).]

**Note to
Sec. 51.**

¹ The above section must, as regards parish meetings, be read in conjunction with Schedule I, Part I, rules 2 and 3 of this Act. It is presumed that the words in Section 51 "shall be given in the manner required for giving notice of vestry meetings" will continue the application of Section 1 of 58 Geo. III, c. 69, so far as concerns the affixing of notices on churches and chapels, notwithstanding the fact that that section is partially repealed by Section 89 of this Act.

The manner of giving notice of vestry meetings was regulated as follows:

Section 1 of 58 Geo. III, c. 69, provided that no vestry or meeting of the inhabitants in vestry of or for any parish should be holden until public notice had been given of, such vestry, and of the place and hour of holding the same, and the special purpose thereof, *three** days at the least before the day to be appointed for holding such vestry, by the publication of such notice [in the parish church or chapel on some Sunday during or immediately after divine service], and by affixing the same, fairly written or printed, on the principal door of such church or chapel. The words in brackets were impliedly repealed by Section 2 of 1 Vict., c. 45, which provides that all proclamations or notices, which under or by virtue of any law or statute, or by custom or otherwise, have been heretofore made or given in churches or chapels during or after divine service, shall be reduced into writing, and copies thereof, either in writing or in print, or partly in writing and partly in print, shall previously to the commencement of divine service on the several days on which such proclamations or notices have heretofore been made or given in the church or chapel of any parish or place, or at the door of any church or chapel, be affixed on or near to the doors of all the churches and chapels within such parish or place ;"

By Section 7 of 58 Geo. III, c. 69, where there is no parish church or chapel, the notices required to be given of a vestry meeting may be given or published in such manner as such notices have been there usually given and published, "or as shall be most effectual for communicating the same to the inhabitants of every such parish, township, vill, or place respectively."

As to signature of the notice *see* Schedule I, Part I, rule 2.

52. (1) Any power which may be exercised and any consent which may be given by the owners and rate-payers of a parish or by the majority of them under any of the Acts relating to the relief of the poor or under the School Sites Acts¹ or the Literary and Scientific Institutions Act, 1854, so far as respects the dealing with parish property or the spending of money or raising of a rate may, in the case of a rural parish, be exercised or given by the parish meeting of the parish.

Supple-
mental pro-
visions as to
transfer of
powers.
17 & 18 Vict.,
c. 112.

(2) In a rural parish the power of making an application or passing a resolution given by Section

* See Schedule I, Part 1, rules 2 and 3, as to length of notice in future.

Sec. 52. twelve² of the Elementary Education Act, 1870, and by
 33 & 34 Vict., c. 75. Section forty-one³ of the Elementary Education Act,
 39 & 40 Vict., c. 79. 1876, to the electing body mentioned in the former section
 shall be transferred to the parish meeting of the parish,
 and shall in cases under the latter section be exercisable,
 by the like majority of the parish meeting, and, if a poll
 is taken, of the parochial electors, as is required by
 that section in the case of the said electing body, and
 rule two of the Second Part of the Second Schedule to
 the former Act with respect to the passing of such
 resolutions shall not apply.

(3) The consent of justices shall not be required for
 the sale of land belonging to a parish which has been
 used for materials for the repair of highways or for the
 purchase of land with the proceeds of any such sale.⁴

59 Geo. III,
 c. 12.

(4) Where the legal estate in any property is vested
 in the churchwardens and overseers of any parish by
 virtue of the Poor Relief Act, 1819,⁵ nothing in the
 Charitable Trusts Acts, 1853 to 1891, shall be deemed
 to require the consent of such churchwardens and over-
 seers in their capacity as a corporation under that Act,
 or of the parish council as their successors,⁶ to a vesting
 order under those Acts dealing with the said legal
 estate. Provided that nothing in this section shall
 affect any rights, powers, or duties of the church-
 wardens and overseers or the parish council, in cases
 where they have active powers of management.

(5) All enactments in any Act, whether general or
 local and personal,⁷ relating to any powers, duties, or
 liabilities transferred by this Act to a parish council or
 parish meeting from justices or the vestry or overseers
 or churchwardens and overseers shall, subject to the
 provisions of this Act and so far as circumstances
 admit, be construed as if any reference therein
 to justices or to the vestry, or to the overseers, or to the
 churchwardens and overseers, referred to the parish
 council or parish meeting as the case requires, and the
 said enactments shall be construed with such modifi-
 cations as may be necessary for carrying this Act into
 effect.

¹ The School Sites Acts are the 4 and 5 Vict., c. 38; 7 and 8 Vict., c. 37; 12 and 13 Vict., c. 49; 14 and 15 Vict., c. 24; 15 and 16 Vict., c. 49.

² Section 12 of the Elementary Education Act, 1870, empowers the Education Department to form a school board without public inquiry on receiving application from [the parish meeting] of a parish.

³ Section 41 of the Elementary Education Act, 1876, relates to the dissolution of school boards which have no schools and no school

sites under their control, in districts where there is sufficient school accommodation.

**Note to
Sec. 52.**

⁴ As to such sales and purchases of land as are here referred to see the enactments in 5 and 6 Wm. IV, c. 50, s. 48; 8 and 9 Vict., c. 71, s. 1, relating to highways; the Sale of Exhausted Parish Lands Act, 1876; the Union and Parish Property Act, 1835; the Parish Property and Parish Debts Act, 1842; and the Inclosure Act, 1845, s. 72.

⁵ Section 17 of the Poor Relief Act, 1819, enacts as follows:—
“All buildings, lands, and hereditaments, which shall be purchased, hired, or taken on lease, by the churchwardens and overseers of the poor of any parish, by the authority and for any of the purposes of this Act,* shall be conveyed, demised, and assured to the churchwardens and overseers of the poor of every such parish respectively, and their successors, in trust for the parish; and such churchwardens and overseers of the poor and their successors, shall and may and they are hereby empowered to accept, take, and hold, in the nature of a body corporate, for and on behalf of the parish, all such buildings, lands, and hereditaments, and also other buildings, lands, and hereditaments belonging to such parish; and in all actions, suits, indictments, and other proceedings for or in relation to any such buildings, land, or hereditaments, or the rent thereof, or for or in relation to any other buildings, lands, or hereditaments belonging to such parish, or the rent thereof, . . . it shall be sufficient to name the churchwardens and overseers of the poor for the time being, describing them as churchwardens and overseers of the poor of the parish for which they shall act, and naming such parish; and no action or suit, indictment, or other proceeding shall cease, abate, or be discontinued, quashed, defeated, or impeded, by the death of the churchwardens and overseers named in such proceeding, or the deaths or death of any of them, or by their removal or the removal of any of them from, or the expiration of, their respective offices.”

⁶ In *re Hackney Charities* (11 L. T. [n. s.] 35) lands had been devised unto the poor of a parish to be distributed by the churchwardens; and other land was conveyed to trustees upon trust to permit the churchwardens to receive the rents and to apply them for the relief of the poor of the parish. It was held that the land was vested in the churchwardens and overseers as a corporation under Section 17 of the Poor Relief Act, 1819, and that the Charity Commissioners had no power to appoint trustees of such land under Section 48 of the Charitable Trusts Act, 1853, without the consent of the churchwardens and overseers.

It appears that in future such property may come under the operation of the latter part of Section 14 (2) of the Local Government Act, 1894; and also that where a vesting order dealing with it can be made under the Charitable Trusts Acts, the consent of the churchwardens and overseers, or of the parish council as their successors, will no longer be required unless they have active powers of management.

It has been held that Section 17 of the Poor Relief Act, 1819, applies to freehold (but not copyhold) land held generally in trust for a parish. Where, however, freehold lands are held upon special

* The purposes here referred to are the building of workhouses (Section 8), and the provision of land for the employment of the poor (Section 12).

Note to Sec. 52. trusts for a parish, they are not within the statute, and are not thereby vested in the churchwardens and overseers. In *re Paddington Charities*, 8 Sim. 629; 7 L. J. Ch. 44.

⁷ See Section 75 (p. 180).

Supplemental provisions as to adoptive Acts.

53. (1) Where on the appointed day¹ any of the adoptive Acts² is in force in a part only of a rural parish, the existing authority under the Act, or the parish meeting for that part,³ may transfer the powers, duties, and liabilities of the authority to the parish council,⁴ subject to any conditions with respect to the execution thereof by means of a committee⁴ as to the authority or parish meeting may seem fit, and any such conditions may be altered by any such parish meeting.

(2) If the area on the appointed day¹ under any authority under any of the adoptive Acts² will not after that day be comprised within one rural parish, the powers and duties of the authority shall be transferred to the parish councils of the rural parishes wholly or partly comprised in that area, or, if the area is partly comprised in an urban district, to those parish councils and the district council of the urban district, and shall, until other provision is made in pursuance of this Act, be exercised by a joint committee appointed by those councils.⁵ Where any such rural parish has not a parish council the parish meeting shall, for the purposes of this provision, be substituted for the parish council.⁶

(3) The property, debts, and liabilities of any authority under any of the adoptive Acts² whose powers are transferred in pursuance of this Act shall continue to be the property, debts, and liabilities of the area of that authority, and the proceeds of the property shall be credited, and the debts and liabilities and the expenses incurred in respect of the said powers, duties, and liabilities, shall be charged to the account of the rates or contributions levied in that area, and where that area is situate in more than one parish the sums credited to and paid by each parish shall be apportioned⁷ in such manner as to give effect to this enactment.

(4) The county council on the application of a parish council may, by order, alter the boundaries⁸ of any such area if they consider that the alteration can properly be made without any undue alteration of the incidence of liability to rates and contributions or of the right to property belonging to the area, regard being had to any corresponding advantage to persons subject to the liability or entitled to the right.

¹ See Section 84 (4) as to appointed day.

² See Section 7 as to adoptive Acts.

³ See Section 49.

⁴ As to the general effect of the transfer of powers and duties from one authority to another *see* Section 67. As to the appointment of committees by parish councils *see* Section 56.

⁵ As to the appointment of joint committees by two or more parish or district councils *see* Section 57.

⁶ As to parish meetings for parishes which have no parish council *see* Section 19.

⁷ The adjustment of debts and liabilities is dealt with in Section 68.

⁸ As to alteration of boundaries *see* Sections 36 and 69.

Note to
Sec. 53.

54. (1) Where a new borough is created, or any other new urban district is constituted, or the area of an urban district is extended,¹ then—

Effect on
parish
council of
constitution
of urban
district.

(a) as respects any rural parish or part of a rural parish which will be comprised in the borough or urban district, provision shall be made, either by the constitution of a new parish, or by the annexation of the parish or parts thereof to another parish or parishes, or otherwise, for the appointment of overseers and for placing the parish or part in the same position as other parishes in the borough or district, and

(b) as respects any parish or part which remains rural, provision shall be made for the constitution of a new parish council for the same, or for the annexation of the parish or part to some other parish or parishes, or otherwise for the government of the parish or part, and

(c) provision shall also where necessary be made for the adjustment² of any property, debts, and liabilities affected by the said creation, constitution, or extension.

(2) The provision aforesaid shall be made—

(a) Where a new borough is created, by a scheme under Section two hundred and thirteen of the Municipal Corporations Act, 1882; 45 & 46 Vict.
c. 50.

(b) Where any other new urban district is constituted, by an order of the county council under Section fifty-seven³ of the Local Government Act, 1888;

(c) Where the area of an urban district is extended, by an order of the Local Government Board under Section fifty-four,³ or of the county council under Section fifty-seven,³ as the case may be, of the Local Government Act, 1888.

(3) Where the area of an urban district is diminished this section shall apply with the necessary modifications.

**Note to
Sec. 54.**

¹ For provisions as to the powers of county councils in regard to the creation of new boroughs and urban districts *see* Sections 56 and 57 Local Government Act, 1888.

² For provisions as to adjustments *see* Section 68.

³ These sections are set out in the note to Section 36, *ante*, p. 135. A copy of every order made by a county council or joint committee in pursuance of this Act must be sent to the Local Government Board, and if it alters any local area or name, also to the Board of Agriculture (Section 71).

**Power to
change name
of district
or parish.**

55. (1) Where a parish is divided or united or grouped with another parish by an order in pursuance of this Act each new parish or group so formed shall bear such name as the order directs.¹

(2) Where a parish is divided by this Act, each parish so formed shall bear such name as the county council direct.¹

(3) Any district council may, with the sanction of the county council, change their name and the name of their district.²

(4) Every change of name made in pursuance of this section shall be published in such manner as the authority authorising the change may direct, and shall be notified to the Local Government Board.³

(5) Any such change of name shall not affect any rights or obligations of any parish, district, council, authority, or person, or render defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name.⁴

¹ *See* Sections 1 (3), 3 (9), 36, and 38. The order referred to in this subsection is made by a county council.

² Hitherto, under Section 311 Public Health Act, 1875, the sanction of the Local Government Board has been necessary to enable a local board to change its name. When this Act comes into operation that sanction will be no longer required, the sanction of the county council being substituted. Notification of the change to the Local Government Board will, however, be necessary.

³ Where the change of name is effected by order, a copy of the order must be sent to the Local Government Board and Board of Agriculture (Section 71).

⁴ As to the effect of the change of name by an urban sanitary authority *see* also Section 85 (5). [As to alterations in poor-law unions *see* note to Section 36 (6).]

**Committees
of parish
or district
councils.**

56. (1) A parish or district council may appoint committees,¹ consisting either wholly or partly of members of the council, for the exercise of any powers which, in the opinion of the council, can be properly exercised by committees, but a committee shall not hold office beyond the next annual meeting of the council,² and the acts of every such committee shall be submitted to the council for their approval.

Provided that where a committee is appointed by any district council for any of the purposes of the Public Health Acts¹ or Highway Acts, the council may authorise the committee to institute any proceeding or do any act which the council might have instituted or done for that purpose other than the raising of any loan or the making of any rate or contract. Sec. 56.

(2) Where a parish council have any powers and duties which are to be exercised in a part only of the parish,³ or in relation to a recreation ground, building, or property held for the benefit of a part of a parish, and the part has a defined boundary,⁴ the parish council shall, if required by a parish meeting held for that part, appoint annually to exercise such powers and duties a committee consisting partly of members of the council and partly of other persons representing the said part of the parish.

(3) With respect to committees of parish and district councils the provisions in the First Schedule to this Act shall have effect.⁵

(4) This section shall not apply to the council of a borough.

This section replaces Sections 200 and 201 of the Public Health Act, 1875. Both these sections (except so much of Section 200 as applies to boroughs) are repealed by the present Act.

¹ Compare Section 15 as to committees.

² The annual meeting of a parish council must be held on or within seven days after the 15th April in each year (Section 3 [4] and [7]). The annual meetings of urban and rural district councils are to be held as soon as convenient after the 15th April (*see* Section 59 and Schedule I of Public Health Act, 1875, and Rule 11, p. 384).

³ *See* Sections 7 [4], 18, 37, 49, and 53 as to parish meetings for part of a parish.

⁴ *See* note to Section 37 (p. 138).

⁵ *See* Schedule I, Part 4 (p. 197).

57. (1) A parish or district council may concur with any other parish or district council or councils in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested, and in conferring, with or without conditions or restrictions, on any such committee any powers which the appointing council might exercise if the purpose related exclusively to their own parish or district. Joint
committees.

(2) Provided that a council shall not delegate to any such committee any power to borrow money or make any rate.

(3) A joint committee appointed under this section shall not hold office beyond the expiration of fourteen

Sec. 57. days after the next annual meeting of any of the councils who appointed it.¹

(4) The costs of a joint committee under this section shall be defrayed by the councils by whom it is appointed in such proportions as they may agree upon, or as may be determined in case of difference by the county council.

(5) Where a parish council can under this Act be required to appoint a committee consisting partly of members of the council and partly of other persons, that requirement may also be made in the case of a joint committee, and shall be duly complied with by the parish councils concerned at the time of the appointment of such committee.²

Compare the provisions of Section 81 Local Government Act, 1888, as to joint committees of county councils.

¹ The annual meeting of a parish council must be held on or within seven days after the 15th April in each year (Section 3 [4] and [7]): the annual meeting of a local board as soon as may be convenient after the 15th April in each year (Public Health Act, 1875, Schedule I [11]). The rule as to local boards will in future apply to urban and rural district councils (*see* Section 59 and p. 384).

² *See*, for instance, Section 56 (2). Where before the passing of this Act a recreation ground, building, or property was held for the benefit of a parish which, in consequence of the provisions of this Act, became divided, sub-section (5) provides a method of managing the property by means of a mixed joint committee chosen from the parts of the old parish affected by the change.

Audit of
accounts of
district and
parish
councils and
inspection.

58. (1) The accounts of the receipts and payments of parish and district councils, and of parish meetings for parishes not having parish councils, and their committees and officers, shall be made up yearly to the thirty-first day of March, or in the case of accounts which are required to be audited half-yearly,¹ then half-yearly to the thirtieth day of September and the thirty-first day of March in each year, and in such form as the Local Government Board prescribe.

(2) The said accounts shall, except in the case of accounts audited by the auditors of a borough, (but inclusive of the accounts of a joint committee appointed by a borough council with another council not being a borough council,) be audited by a district auditor,² and the enactments relating to audit by district auditors of accounts of urban sanitary authorities³ and their officers, and to all matters incidental thereto and consequential thereon, shall apply accordingly, except that in the case of the accounts of rural district councils, their committees and officers, the audit shall be half-yearly instead of yearly.

(3) The Local Government Board may, with respect to any audit to which this section applies, make rules modifying the enactments as to publication of notice of the audit and of the abstract of accounts and the report of the auditor. Sec. 58.

(4) Every parochial elector⁴ of a rural parish may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the parish council of the parish or parish meeting.

(5) Every parochial elector⁴ of a parish in a rural district may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the district council of the district.

For provisions as to audit of accounts up to the date of the commencement of this Act *see* Section 85.

¹ *See* subsection (2) as to accounts which are audited half-yearly.

² District auditors are appointed by the Local Government Board under the District Auditors Act, 1879. That Act empowers the Local Government Board to make regulations as to the audit of accounts, the form in which the accounts are to be kept, the mode in which they are to be certified by the local authority or any officer of that authority, &c. For information as to this, reference should be made to the order in force for the time being affecting the accounts of the particular authority concerned. Copies of such orders can be obtained by local authorities from the Local Government Board.

³ *See* Section 247 of the Public Health Act, 1875, which provides (among other things) that any ratepayer or owner of property in the district may be present at the audit of accounts of receipts and expenditure under that Act of urban authorities other than borough councils, and may make any objection to such accounts before the auditor, and may also appeal to the Local Government Board against the auditor's decision. This section will in future apply to the audit of accounts of parish meetings, parish councils, rural district councils, and all urban district councils except those of municipal boroughs, with the exception that the accounts of rural district councils will be audited half-yearly (*see* p. 378).

In boroughs the accounts are audited by auditors chosen by the mayor and burgesses under Section 25 of the Municipal Corporations Act, 1882.

In the vestries of the metropolis the auditors will in future be chosen by the electors under Section 11 of the Metropolis Local Management Act, 1855, as modified by Section 31 of this Act (p. 125).

⁴ For definition of "parochial electors" *see* Section 44 and Section 75.

59. (1) Section one hundred and ninety-nine¹ and Schedule 1 of the Public Health Act, 1875, so far as that schedule is unrepealed (which relate to the meetings of urban authorities, and to the meetings and

Supplemental provisions as to district councils. 38 & 39 Vict., c. 55.

Sec. 59. proceedings of local boards), shall apply in the case of every urban district council other than a borough council and of every rural district council and board of guardians, as if such district council or board were a local board, except that the chairman of the council or board may be elected from outside the councillors or guardians.²

(2) Any urban district council other than a borough council, and any rural district council and board of guardians may, if they think fit, appoint a vice-chairman to hold office during the term of office of the chairman, and the vice-chairman shall, in the absence or during the inability of the chairman, have the powers and authority of the chairman.

(3) Any rural district council shall be entitled to use for the purpose of their meetings and proceedings the board room³ and offices of any board of guardians for the union comprising their district at all reasonable hours, and if any question arises as to what hours are reasonable it may be determined by the Local Government Board.

(4) Nothing in this section shall affect any powers of the Local Government Board with respect to the proceedings of guardians.

(5) If any district council, other than a borough council, become unable to act, whether from failure to elect or otherwise, the county council of the county in which the district is situate may order elections to be held and may appoint persons to form the district council until the newly elected members come into office.

(6) Nothing in this Act shall affect any powers of the Secretary of State under the Public Health Supplemental Act for Aldershot,⁴ 1857, or the position of persons nominated under those powers.

20 & 21 Vict.,
c. 22.

¹ Section 199 Public Health Act, 1875, and Schedule 1 are printed in the Appendix, pages 367 and 383.

² As to the chairman of a board of guardians *see* Section 20 (7) (p. 107).

³ Boards of guardians are not to meet at public-houses (Section 61) (p. 166).

⁴ The Act referred to is 20 and 21 Vict., c. 22. The circumstances of Aldershot are peculiar in consequence of the military camp established there. It was considered desirable to give the military authorities special seats on the local board, and this is done by the Act in question.

Miscellaneous.

Supple-
mental
provisions as
to guardians.

60. (1) The council of each county¹ may, from time to time, by order, fix or alter the number of guardians

or rural district councillors to be elected for each parish within their county, and for those purposes may exercise powers of adding parishes to each other² and dividing parishes into wards,³ similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Local Government Board. Sec. 60.

(2) The council of each county¹ may for the purpose of regulating the retirement of guardians or rural district councillors, in cases where they retire by thirds,⁴ and in order that as nearly as may be one third of the persons elected as guardians for the union, and one third of the persons elected as rural district councillors for the district, shall retire in each year, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire.

(3) Where a poor law union is situate in more than one county, the power under this section of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and of district councillors, shall be exercised by a joint committee⁵ of the councils of the counties concerned, but if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee.

Provided that if any order under this sub-section is, within six weeks after the making thereof, objected to by any of the county councils concerned, or by any committee of any of those councils authorised in that behalf, it shall be of no effect until confirmed by the Local Government Board.

(4) Where under any local and personal Act⁶ guardians of a poor law union are elected for districts, whether called by that name or not, the provisions of this Act with respect to the election of guardians⁷ shall apply as if each of the districts were a parish.

(5) The board of guardians of a union elected in pursuance of this Act shall, save as otherwise provided by an order of the Local Government Board, made on the application of those guardians, have the same powers and duties under any local and personal⁶ Act as the existing board of guardians.

(6) Nothing in this Act shall alter the constitution of the corporation of the guardians of the poor within the city of Oxford, or the election or qualification of

Sec. 60. the members thereof, except those members who are elected by the ratepayers of parishes.

¹ The expression "council of each county" includes the council of a county borough, and apparently also the council of the administrative county of London; see the definition of "administrative county" on page 174.

² As to the power of the Local Government Board to add parishes together for purposes of election of guardians see 4 and 5 Wm. IV, c. 76, s. 32; 7 and 8 Vict., c. 101, s. 66; 30 and 31 Vict., c. 106, ss. 3 and 15; 31 and 32 Vict., c. 122, s. 6; 33 Vict., c. 2, s. 1.

³ As to dividing parishes into wards for poor law purposes see 39 and 40 Vict., c. 61, Section 12, which repeals Section 19 of 7 and 8 Vict., c. 101; also 45 and 46 Vict., c. 58, s. 8. Also see p. 193.

⁴ See Section 20 (6) as to retirement of guardians by thirds.

⁵ Joint committees of county councils are constituted under Section 81 Local Government Act, 1888.

⁶ See Section 75 for definition of "local and personal Act," p. 180.

⁷ See Section 20 as to election of guardians.

Place of meeting of parish or district council or board of guardians.

61. No parish meeting or meeting of a parish council,¹ or of a district council,² or of a board of guardians shall be held in premises licensed for the sale of intoxicating liquor, except in cases where no other suitable room³ is available for such meeting either free of charge or at a reasonable cost.

¹ Provision is made in Section 4 enabling the parochial electors and parish council to use free of charge, for certain purposes, any suitable room in any public elementary school which receives a grant from Parliament.

² The *rural* district council is entitled to use the board-room and offices of the board of guardians of the union comprising their district (Section 59 [3]).

³ The questions whether a room is suitable and whether it can be had at a reasonable cost must in the first instance be determined by the council or board concerned. It would seem that the proceedings of any meeting held in contravention of this section would be null and void.

Permissive transfer to urban district council of powers of other authorities.

62. (1) Where there is in any urban district,¹ or part of an urban district, any authority constituted under any of the adoptive Acts,² the council of that district may resolve that the powers, duties, property, debts, and liabilities of that authority shall be transferred³ to the council as from the date specified in the resolution, and upon that date the same shall be transferred accordingly, and the authority shall cease to exist, and the council shall be the successors of that authority.

(2) After the appointed day⁴ any of the adoptive Acts² shall not be adopted for any part of an urban district without the approval of the council of that district.⁵

¹ For definition of urban district *see* Section 21 (1) and note thereto.

Note to
Sec. 62.

² *See* Section 7 as to adoptive Acts.

³ As to the settlement of any question relating to such transfer *see* Section 70.

⁴ *See* Section 84 (4) as to appointed day.

⁵ The Acts specified in Section 7, or any of them, may be adopted in an urban district in the same manner as before the commencement of this Act, subject, however, to the proviso in sub-section (2) above, that the urban district council's approval of the adoption must be obtained where the adoption is to be for part of a district.

63. (1) Where the powers of a district council are by virtue of a resolution under this Act transferred to a county council,¹ the following provisions shall have effect:—

Provisions
as to county
council
acquiring
powers of
district
council.

- (a) Notice of the resolution of the county council by virtue of which the transfer is made shall be forthwith sent to the district council and to the Local Government Board :
- (b) The expenses incurred by the county council shall be a debt from the district council to the county council, and shall be defrayed as part of the expenses of the district council in the execution of the Public Health Acts, and the district council shall have the like power of raising the money as for the defraying of those expenses :²
- (c) The county council for the purpose of the powers transferred may on behalf of the district council borrow subject to the like conditions, in the like manner, and on the security of the like fund or rate, as the district council might have borrowed for the purpose of those powers :³
- (d) The county council may charge the said fund or rate with the payment of the principal and interest of the loan, and the loan with the interest thereon shall be paid by the district council in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on that fund or rate by the district council :
- (e) The county council shall keep separate accounts of all receipts and expenditure in respect of the said powers :
- (f) The county council may by order vest in the district council all or any of the powers, duties, property, debts, and liabilities of the county council in relation to any of the said powers, and the property, debts, and liabilities so vested shall be deemed to have been acquired or incurred by

Sec. 63.

the district council for the purpose of those powers.

(2) Where a rural district is situate in two or more counties a parish council complaining under this Act⁴ may complain to the county council of the county in which the parish is situate, and if the subject-matter of the complaint affects any other county the complaint shall be referred to a joint committee⁵ of the councils of the counties concerned, and any question arising as to the constitution of such joint committee shall be determined by the Local Government Board, and if any members of the joint committee are not appointed the members who are actually appointed shall act as the joint committee.

¹ The county council may resolve that the powers of a district council shall be transferred to them in consequence of the default of the latter in providing a parish with sufficient sewers or with a supply of water in certain circumstances: in enforcing the provisions of the Public Health Acts, etc. (*see* Section 16 [1]): or in taking proceedings under Section 26 (4).

² As to the expenses of district councils *see* Sections 28 and 29 and notes thereto.

³ For information as to the borrowing powers of district councils for the purposes of their powers under the Public Health Acts *see* Sections 233 to 242 of the Public Health Act, 1875; the Local Loans Act, 1875 (especially Section 31) and 1885.

⁴ As to the circumstances in which a parish council may complain to a county council *see* Sections 16 (1) and 26 (4).

⁵ Joint committees of county councils are constituted under Section 81 Local Government Act, 1888.

Power to act
through
district
council.

64. A county council may employ a district council as their agents in the transaction of any administrative business¹ on matters arising in, or affecting the interests of, its own district.

¹ By Section 3 of the Local Government Act, 1888, the "administrative business" (as distinguished from judicial business) of quarter sessions in respect of the several matters mentioned in the section was transferred to county councils. Section 64 of the present Act empowers a county council to employ a district council as their agents in the transaction of that kind of business when it relates to the district.

Saving for
harbour
owers.

65. Where any improvement commission affected by this Act have any powers, duties, property, debts, or liabilities in respect of any harbour, the improvement commission shall continue to exist and be elected for the purpose thereof, and shall continue as a separate body, as if this Act had not passed, and the property, debts, and liabilities shall be apportioned between the district council for the district and the commission so continuing, and the adjustment arising out of the

apportionment shall be determined in manner provided by this Act.¹ Sec. 65.

¹ As to the adjustment of property and liabilities *see* Section 68.

66. Nothing in this Act shall affect the trusteeship, management, or control of any elementary school. Saving for elementary schools.

67. Where any powers and duties are transferred by this Act from one authority to another authority¹— Transfer of property and debts and liabilities.

- (1) All property held by the first authority for the purpose or by virtue of such powers and duties shall pass to and vest in the other authority, subject to all debts and liabilities affecting the same ; and
- (2) The latter authority shall hold the same for the estate, interest, and purposes, and subject to the covenants, conditions, and restrictions for and subject to which the property would have been held if this Act had not passed, so far as the same are not modified by or in pursuance of this Act ; and
- (3) All debts and liabilities of the first authority incurred by virtue of such powers and duties shall become debts and liabilities of the latter authority, and be defrayed out of the like property and funds out of which they would have been defrayed if this Act had not passed.

¹ As to transfer by resolution under this Act of the powers of a district council to a county council *see* Section 63. The present Section deals only with powers and duties which are by the Act itself transferred from one authority to another ; *see*, for instance, Section 25, which transfers to rural district councils all the powers, duties, and liabilities of the rural sanitary authority in the district, and of any highway authority in the district. *See* also Secs. 5 and 6.

As to the mode of determining cases in which doubt arises whether or not powers and duties are transferred by this Act *see* Section 70.

68. (1) Where any adjustment is required for the purpose of this Act, or of any order, or thing made or done under this Act, then, if the adjustment is not otherwise made,¹ the authorities interested may make agreements for the purpose, and may thereby adjust any property, income, debts, liabilities, and expenses, so far as affected by this Act, or such scheme, order, or thing, of the parties to the agreement. Adjustment of property and liabilities.

(2) The agreement may provide for the transfer or retention of any property, debts, or liabilities, with or without any conditions, and for the joint use of any property, and for payment by either party to the agreement in respect of property, debts, and liabilities so transferred or retained, or of such joint user, and in

Sec. 68. respect of the salary or remuneration of any officer or person, and that either by way of an annual payment or, except in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board: Provided that where any of the authorities interested is a board of guardians, any such agreement, so far as it relates to the joint use of any property, shall be subject to the approval of the Local Government Board.

(3) In default of an agreement, and as far as any such agreement does not extend, such adjustment shall be referred to arbitration in accordance with the Arbitration Act, 1889, and the arbitrator shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.²

52 & 53 Vict.,
c. 49.

(4) Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses³ of exercising their duties under this Act, or out of such special fund as the authority, with the approval of the Local Government Board, direct, and if it is a capital sum the payment thereof shall be a purpose for which the authority may borrow⁴ under the Acts relating to such authority, on the security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction.

(5) Any capital sum paid to any authority for the purpose of any adjustment under this Act shall be treated as capital, and applied, with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

Compare the provisions of Section 62 Local Government Act, 1888, which are in many respects similar to those of the above Section.

¹ "Not otherwise made," *e. g.* by the order of the Local Government Board, or county council under which the necessity for adjustment arises. If the order settles the adjustment, no agreements on the part of the authorities will be required; if not so settled, the adjustment must be made either by agreement or by arbitration as provided in sub-sections (2) and (3) above.

² The matters for which an agreement might have provided are indicated in sub-section (2) above.

³ As to the expenses of district councils *see* Sections 28 and 29 and notes thereto.

**Note to
Sec. 68.**

⁴ As to the borrowing powers of district councils *see* Sections 233 to 242 Public Health Act, 1875: the Local Loans Acts, 1875 and 1885; and Section 25 of the Housing of the Working Classes Act, 1890. By Section 234 of the Public Health Act, money can only be borrowed for "permanent works," and for the purpose of discharging previous loans. Sub-section (4) of the above Section, however, enables money to be borrowed to pay a capital sum required to be raised for the purpose of an adjustment under this Act.

In districts where the Public Health Acts Amendment Act, 1890, has been adopted, further powers as to borrowing are given by Section 52 of that Act.

69. Where an alteration of any area¹ is made by this Act, an order for any of the matters mentioned in Section fifty-nine² of the Local Government Act, 1888, may, if it appears to the county council desirable, be made by the county council, or, in the case of an area situate in more than one county, by a joint committee³ of county councils, but nothing in this section shall empower a county council or joint committee to alter the boundaries of a county.⁴

Power to deal with matters arising out of alteration of boundaries.

¹ *See* Section 1 (3); Section 36; and Section 53 as to alteration of areas.

² The section referred to is set out in the note to Section 36 of the present Act (p. 137).

³ Joint committees of county councils are constituted under Section 81 Local Government Act, 1888.

⁴ As to the alteration of the boundaries of a county *see* Section 54 Local Government Act, 1888, which is set out in the note to Section 36 of the present Act (p. 134). *See also* Section 36 (5) (p. 131).

70. (1) If any question arises, or is about to arise, as to whether any power, duty, or liability is or is not transferred by or under this Act to any parish council, parish meeting, or district council, or any property is or is not vested in the parish council, or in the chairman and overseers of a rural parish, or in a district council, that question, without prejudice to any other mode of trying it, may, on the application of the council, meeting, or other local authority concerned, be submitted for decision to the High Court in such summary manner as, subject to any rules of court, may be directed by the Court;¹ and the Court, after hearing such parties and taking such evidence (if any) as it thinks just, shall decide the question.

Summary proceeding for determination of questions as to transfer of powers.

(2) If any question arises or is about to arise under this Act as to the appointment of the trustees or beneficiaries of any charity, or as to the persons in whom the property of any charity is vested, such question shall,

Sec 70. at the request of any trustee, beneficiary, or other person interested, be determined in the first instance by the Charity Commissioners, subject to an appeal to the High Court brought within three months after such determination. Provided that an appeal to the High Court of Justice from any determination of the Charity Commissioners under this section may be presented only under the same conditions as are prescribed in the case of appeals to the High Court from orders made by the Charity Commissioners under the Charitable Trusts Acts, 1853 to 1891.²

(3) An appeal shall, with the leave of the High Court or Court of Appeal, but not otherwise, lie to the Court of Appeal against any decision under this section.³

¹ The first sub-section of Section 70 is adapted from Section 29 Local Government Act, 1888.

In submitting cases under that section for the opinion of the High Court the following rule of the Supreme Court made on 10th August, 1892, applies:

"The summary proceeding for submitting any question for decision to the High Court of Justice under the 29th Section of the Local Government Act, 1888, shall be by special case to be agreed upon by the parties, or in default of such agreement to be settled by an arbitrator agreed upon by the parties or (if necessary) appointed by a Judge at Chambers, or to be settled by a Judge at Chambers.

The special case when settled, shall be filed at the Crown Office Department, at the Central Office of the Supreme Court, by the Chairman of Quarter Sessions, the county council, or the local authority concerned, within eight days from the settlement thereof, and shall be put into the Crown paper for argument as if it were a case stated by Justices under 20 and 21 Vict., c. 43." (*See* 1892, W.N., Appendix, p. 29.)

The above rule as far as Section 29 Local Government Act, 1888, is concerned, supersedes the course laid down in *Ex parte the Chairman of the Staffordshire Quarter Sessions*, 1889, W.N., 183.

Until a new rule is made under Section 70 Local Government Act, 1894, cases for the High Court should be submitted in the same manner as under Section 29 of the Act of 1888.

Facts which have actually arisen must be stated; the High Court will not answer questions as to construction of the statute unless arising out of facts which have actually occurred. *Re County Council of Cardigan*, 54 J. P. 792.

² As to appeals to the High Court from orders of the Charity Commissioners under the Charitable Trusts Acts *see* p. 98.

³ No appeal lies to the Court of Appeal under the corresponding section (29) of the Local Government Act, 1888 (*County Council of Kent and Boroughs of Dover and Sandwich*), 1891, 7 'Times,' L. R., 487; (1891) 1 Q. B. 725.

Supple-
mental
provisions
as to county
council
orders.

71. A copy of every order made by a county council or joint committee in pursuance of this Act shall be

sent to the Local Government Board, and, if it alters any local area or name, also to the Board of Agriculture. Sec. 71.

72. (1) The expenses¹ incurred by the Local Government Board in respect of inquiries or other proceedings under this Act shall be paid by such authorities and persons and out of such funds and rates as the Board may by order direct, and the Board may certify the amount of the expenses so incurred, and any sum so certified and directed by the Board to be paid by any authority or person shall be a debt from that authority or person to the Crown. Provisions as to local inquiries.

(2) Such expenses may include the salary of any inspector or officer of the Board engaged in the inquiry or proceeding, not exceeding three guineas a day.

(3) The Local Government Board and their inspectors shall have for the purposes of an inquiry in pursuance of this Act the same powers as they respectively have for the purpose of an inquiry under the Public Health Act, 1875.²

(4) Where a county council hold a local inquiry under this Act or under the Local Government Act, 1888, on the application of the council of a parish or district, or of any inhabitants of a parish or district, the expenses incurred by the county council in relation to the inquiry (including the expenses of any committee or person authorised by the county council) shall be paid by the council of that parish or district, or, in the case of a parish which has not a parish council, by the parish meeting; but, save as aforesaid, the expenses of the county council incurred in the case of inquiries under this Act shall be paid out of the county fund.

¹ As to what the expression "expenses" includes see Section 75 (p. 177).

² It is provided by Section 296 of the Public Health Act, 1875, that "inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts."

These powers are given in 4 and 5 Wm. IV, c. 76, s. 12, and 10 and 11 Vict., c. 109, ss. 20 and 21.

73. When the day on which any thing is required by or in pursuance of this Act to be done is Sunday, Christmas Day, or Good Friday, or a bank holiday, that thing shall be done on the next following day, not being one of the days above mentioned. Provision as to Sundays and bank holidays.

Provisions
as to Scilly
Islands.
51 & 52 Vict.
c. 41.

74. This Act shall be deemed to be an Act touching local government within the meaning of Section forty-nine of the Local Government Act, 1888, and a provisional order for the Scilly Islands may, on the application of the council of the Isles of Scilly, and after such public notice as appears to the Local Government Board sufficient for giving information to all persons interested, be made accordingly.

¹ Section 49 of the Local Government Act, 1888, empowered the Local Government Board to make a provisional order for regulating the application of that Act to the Scilly Islands, and (among other things) for the application to the Islands of any provisions of any Act touching local government. A provisional order made under that section was included in the Local Government Board Provisional Orders Confirmation (No. 6) Act, 1890, by which the Scilly Islands were constituted a rural sanitary district with the powers of a county council; and by Section 74 of the present Act the Local Government Board may apply to the Scilly Islands such portions of this Act as they, on the application of the council of the Islands, think fit.

Construction
of Act.
51 & 52 Vict.,
c. 41.

75. (1) The definition of *parish*¹ in Section one hundred of the Local Government Act, 1888, shall not apply to this Act, but, save as aforesaid, expressions used in this Act shall, unless the context otherwise requires, have the same meaning as in the said Act.²

¹ By Section 5 of the Interpretation Act, 1889, the expression "parish," unless the contrary intention appears, means, as respects England and Wales, a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed."

As the definition of "parish" employed in Section 100 of the Local Government Act, 1888, is excluded, the above definition applies in the Local Government Act, 1894.

² The following is a copy of the interpretation clause* in the Local Government Act, 1888:—

100. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them; that is to say:

The expression *county* does not include a county of a city or county of a town:

The expression *entire county* means, in the case of a county divided into administrative counties, the whole of the county formed by those administrative counties.

The expression *division of a county* in the provisions of this Act

* The intention of interpretation clauses is that in construing the Acts, the word interpreted, in addition to its ordinary meaning, shall bear the meanings mentioned in the interpretation clause. The words "shall include" signify "shall have the following meanings in addition to its popular meaning;" per Brett, M.R., in *Portsmouth Corporation v. Smith*, 13 Q. B. D., on p. 195. "Means" signifies that the word has the particular signification assigned to it and no other.

- respecting the property of quarter sessions, includes any hundred, lathe, wapentake, or other like division :
- The expression *administrative county* means the area for which a county council is elected in pursuance of this Act, but does not (except where expressly mentioned) include a county borough :
- The expression *metropolis* means the city of London and the parishes and places mentioned in Schedules A, B, and C to the Metropolis Management Act, 1855, as amended by subsequent Acts : 18 & 19 Vict., c. 120.
- The expression *borough* means any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the mayor, aldermen, and burgesses of a borough shall include a reference to the mayor, aldermen, and citizens of a city : 45 & 46 Vict., c. 50.
- The expression *quarter sessions borough* means a borough having a separate court of quarter sessions and includes a county of a city and a county of a town, subject to the Municipal Corporations Act, 1882 :
- The expression *quarter sessions* as respects any county, riding, division, or liberty, means the justices in quarter or general sessions assembled, and includes justices assembled in gaol sessions, annual general sessions, and adjourned sessions, and as respects any borough, means any court of quarter or general sessions held for the borough or for any county of a city or town consisting of the borough, whether held by the recorder or by justices, and as respects the city of London, means the court of the mayor and aldermen in the inner chamber :
- The expression "*parish*" means a place for which a separate*over-seer is or can be appointed, and where part of a parish is situate within, and part of it without, any county, borough, urban sanitary district, or other area, means each such part :
- The expressions *parliamentary county*, and *parliamentary election*, and *parliamentary voters*, have the same meaning as in the Registration Act, 1885, and the Acts therein referred to : 48 & 49 Vict., c. 15.
- The expression *Secretary of State* means one of Her Majesty's Principal Secretaries of State :
- The expression *Treasury* means the Commissioners of Her Majesty's Treasury :
- The expression *Bank of England* means the Governor and Company of the Bank of England :
- The expression *existing* means existing at the time specified in the enactment in which the expression is used, and if no such time is expressed, then at the day appointed to be for the purpose of such enactment the appointed day :
- The expression *guardians* means guardians elected under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other bodies of persons performing under any local Act the like functions to guardians under the Poor Law Amendment Act, 1834 : 4 & 5 W. 4, c. 76.
- The expression *poor law union* means any parish or union of parishes for which there is a separate board of guardians :

* See sub-section 1 of Section 75 of the present Act.

**Note to
Sec. 75.**

* The expressions *district council* and *county district* mean respectively any district council established for purposes of local government under an Act of any future session of Parliament, and the district under the management of such council, and until such council is established, mean respectively—

(a) as regards the provisions of this Act relating to highways and main roads, a highway authority and highway area; and

38 & 39 Vict.,
c. 55.

(b) save as aforesaid, an urban or rural sanitary authority within the meaning of the Public Health Act, 1875, and the district of such authority:

The expression *highway area* means, as the case may require, an urban sanitary district, a highway district, or a highway parish not included within any highway or urban sanitary district:

The expression *highway authority* means, as respects an urban sanitary district, the urban sanitary authority, and as respects a highway district, the highway board, or authority having the powers of a highway board, and as respects a highway parish, the surveyor or surveyors of highways or other officers performing similar duties:

* The expression *urban authority* means, until the establishment of district councils as aforesaid, an urban sanitary authority; and after their establishment, the district council of an urban county district:

* The expression *rural authority* means, until the establishment of district councils as aforesaid, a rural sanitary authority; and, after their establishment, the district council of a rural county district:

The expression *person* includes any body of persons, whether corporate or unincorporate:

Any expression referring to the value of any parish, borough, or area as ascertained by the standard or basis for the county rate or contributions shall, where any rateable value has been fixed by agreement between the councils of any county and county boroughs be that value, and subject thereto shall, in the case of any parish, borough, or area for which there is no such standard or basis, refer to the total rateable value as determined by the last valuation lists, or if there is no valuation list, by the last poor rates for such parish or the parishes comprised in such borough or area; and where an area is authorised or directed by this Act to be assessed to any contributions or rates, the same shall, unless otherwise provided by law, be assessed according to the standard or basis for the county rate:

The expression *property* includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books, and documents; and when used in relation to any quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in trust for,

* See Section 21, Local Government Act, 1894.

or would but for this Act have, on or after that day, belonged to, or been vested in, or held in trust for, such quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority; and the expression *property* shall further include, in the case of the county of Chester, any surplus revenue of the River Weaver Trust, which is or would but for this Act be payable to the quarter sessions :

Note to
Sec. 75.

The expression *powers* includes rights, jurisdiction, capacities, privileges, and immunities :

The expression *duties* includes responsibilities and obligations :

The expression *liabilities* includes liability to any proceeding for enforcing any duty or for punishing the breach of any duty, and includes all debts and liabilities to which any authority are or would but for this Act be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and includes any obligation to carry or apply any money to any sinking fund or to any particular purpose :

The expression *powers, duties, and liabilities*, includes all powers, duties, and liabilities conferred or imposed by or arising under any local and personal Act :

The expression *expenses* includes costs and charges :

The expression *costs* includes charges and expenses :

The costs of assizes and of quarter and petty sessions include such of the following costs as are applicable, that is to say, the costs of maintaining and providing the courts and offices and the judges' lodgings, the salaries and remuneration of a chairman of quarter sessions, clerks of assize, clerks of the peace, clerks of the justices, and other officers, the costs of the jury lists, the costs of rewards ordered to be paid by the court, the costs of prosecutions including the costs of the defendant's witnesses, and all other costs incidental to the assizes, quarter sessions, petty sessions, or the judges, but nothing shall require a quarter sessions borough to contribute towards the costs of prosecutions at assizes except in the case of prisoners committed for trial from the borough :

The expression *assizes* includes the Central Criminal Court :

The expression *pension* includes any superannuation allowance, gratuity, or other payment made on the retirement of any officer :

The expression *office* includes any place, situation, or employment, and the expression *officer* shall be construed accordingly :

The expression *the divisions of Lincolnshire* means the parts of Holland, the parts of Kesteven, and the parts of Lindsey :

The expression *County and Borough Police Act, 1856*, means the Act of the session of the nineteenth and twentieth years of the reign of Her present Majesty, chapter sixty-nine, intitled "An Act to render more effectual the police in counties and boroughs in England and Wales," and the expression *County and Borough Police Acts* means the County and Borough Police Act, 1856, and the Acts therein recited :

19 & 20 Vict.
c. 69.

The expression *main road* when used in relation to the district of any highway or road authority, means so much of the main road as is situate within the district of such authority.

In relation to the election of county councillors, the day of nomination shall be deemed to be the day on which the names of the persons nominated are fixed on the Town Hall or other conspicuous place.

Sec. 75. (2) In this Act, unless the context otherwise requires—

Any reference to population means the population according to the census of one thousand eight hundred and ninety-one.

The expression *parochial elector*, when used with reference to a parish in an urban district, or in the county of London or any county borough, means any person who would be a parochial elector of the parish if it were a rural parish.³

³ “Parochial electors” are defined in Section 2 (1) as “the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish.” See Section 44 as to the persons entitled to have their names in these registers.

The expression *election* includes both the nomination and the poll.

The expression *trustees* includes persons administering or managing any charity or recreation ground, or other property or thing in relation to which the word is used.

The expression *ecclesiastical charity* includes a charity, the endowment whereof is held for some one or more of the following purposes:—

- (a) for any spiritual purpose which is a legal purpose; or
- (b) for the benefit of any spiritual person or ecclesiastical officer as such; or
- (c) for use, if a building, as a church, chapel, mission room, or Sunday school, or otherwise by any particular church or denomination; or
- (d) for the maintenance, repair, or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or
- (e) otherwise for the benefit of any particular church or denomination, or of any members thereof as such.

Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act; and the Charity Commissioners shall, on application by any person interested, make such provision for the apportionment and management of that endowment as seems to them necessary or expedient for giving effect to this Act.

- The expression shall also include any building which in the opinion of the Charity Commissioners has been erected or provided within forty years before the passing of this Act mainly by or at the cost of members of any particular church or denomination. Sec. 75.
- The expression *affairs of the church* shall include the distribution of offertories or other collections made in any church.
- The expression *parochial charity* means a charity the benefits of which are or the separate distribution of the benefits of which is confined to inhabitants of a single parish, or of a single ancient ecclesiastical parish divided into two or more parishes, or of not more than five neighbouring parishes.
- The expression *vestry* in relation to a parish means the inhabitants of the parish whether in vestry assembled or not, and includes any select vestry either by statute or at common law.
- The expression *rateable value* means the rateable value stated in the valuation list in force, or, if there is no such list, in the last poor rate.
- The expression *county* includes a county borough, and the expression *county council* includes the council of a county borough.
- The expression *elementary school* means an elementary school within the meaning of the Elementary Education Act, 1870.⁴ 33 & 34 Vict., c. 75.

⁴ An elementary school means "a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction, from each scholar, exceed ninepence a week." (Elementary Education Act, 1870, Section 3.)

The following definition of a "public elementary school" is given in Section 7 of that Act:—

"Every elementary school which is conducted in accordance with the following regulations shall be a public elementary school within the meaning of this Act; . . . namely,

- "(1) It shall not be required, as a condition of any child being admitted into or continuing in the school, that he shall attend or abstain from attending any Sunday school or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere, from which observance or instruction he may be withdrawn by his parent, or that he shall, if withdrawn by his parent, attend the school on any day ex-

Note to
Sec. 75.

- clusively set apart for religious observance by the religious body to which his parent belongs :
- “(2) The time or times during which any religious observance is practised, or instruction in religious subjects is given at any meeting of the school shall be either at the beginning or at the end, or at the beginning and the end of such meeting, and shall be inserted in a time table to be approved by the Education Department, and to be kept permanently and conspicuously affixed in every school room ; and any scholar may be withdrawn by his parent from such observance or instruction without forfeiting any of the other benefits of the school :
- “(3) The school shall be open at all times to the inspection of any of Her Majesty’s Inspectors, so, however, that it shall be no part of the duties of such Inspector to inquire into any instruction in religious subjects given at such school, or to examine any scholar therein in religious knowledge, or in any religious subject or book :
- “(4) The school shall be conducted in accordance with the conditions required to be fulfilled by an elementary school in order to obtain an annual parliamentary grant.”

The expression *local and personal Act* includes a Provisional Order confirmed by an Act and the Act confirming the Order.⁵

⁵ “*Local and Personal Act.*”—An Act may be local and personal although printed among the public statutes of the realm. In *Richards v. Easto* (15 M. and W., 244), Parke B. said:—“On May 1, 1797, the House of Lords resolved that the King’s printer should class the general statutes and special, the public local, and private, in separate volumes ; and on May 8, 1801, there was a resolution of the House of Commons, agreed to by the House of Lords, that the general statutes and the ‘public local and personal’ in each session should be classed in separate volumes :” and he described an Act confined to the district in and about the metropolis (7 and 8 Vict., c. 84) which, notwithstanding the above direction, had been classed as a public general Act as “local, as being confined to local limits ; personal, as affecting particular descriptions of persons only, as distinguished from all the Queen’s subjects.” In *Reg. v. London County Council* (1893), 2 Q. B., 461, Lord Esher, M. R., said that that definition seemed the best that could be proposed ; *see* also the judgments of Bowen and Kay, L J J, in this case.

The expression *prescribed* means prescribed by order of the Local Government Board.

Extent of
Act.
Short title.

76. This Act shall not extend to Scotland or Ireland.
77. This Act may be cited as the Local Government Act, 1894.

PART V.

PART V.

TRANSITORY PROVISIONS.

78. (1) The overseers of each rural parish shall convene the first parish meeting of the parish at the time fixed by or under this Act¹ for the first election of parish councillors, whether there is or is not a parish council for the parish, and for this purpose the overseers of a parish shall be deemed to be the overseers of every part of the parish.

First elections to parish councils.

(2) The chairman² of the parish meeting at which the first parish councillors are nominated, or in his default the clerk of the guardians,³ shall convene the first meeting of the parish council.

(3) The first parish councillors and the first chairman of a parish meeting elected under this Act shall retire on the second ordinary day of coming into office of councillors which happens after their election.⁴

¹ See Section 84 (1) as to date of first elections.

² At the first parish meeting the first business will be to choose the chairman.

³ This imposes on every clerk of a board of guardians the duty of seeing that steps are taken to convene the first meeting of the parish council in every parish in his union which is entitled to have a parish council under this Act (*see* Section 1).

⁴ That will be on the 15th April, 1896 (Section 3 [4]).

79. (1) The existing boards of guardians and urban and rural sanitary authorities shall take the necessary measures for the conduct of the first elections¹ of guardians and district councillors respectively under this Act, including any appointment of returning officers required by rules² under this Act.

First elections of guardians and district councils.

(2) Where a parish is divided by this Act³ into two or more new parishes, then, subject to any order made by the county council,⁴ there shall be one guardian, and if it is in a rural district, one district councillor for each of such new parishes.

(3) Of the guardians and urban and rural district councillors first elected under this Act, save as herein-after mentioned,⁵ one third as nearly as may be shall continue in office until the fifteenth day of April, One thousand eight hundred and ninety-six, and shall then retire; and one third as nearly as may be shall continue in office until the fifteenth day of April, One

Sec. 79. thousand eight hundred and ninety-seven, and shall then retire; and the remainder shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-eight, and shall then retire.

(4) The guardians and rural district councillors to retire respectively on the fifteenth day of April one thousand eight hundred and ninety-six and on the fifteenth day of April one thousand eight hundred and ninety-seven shall be the guardians and rural district councillors for such parishes, wards, or other areas, as may be determined by the county council for the purpose of the rotation.

(5) Where guardians or rural district councillors retire together at the end of the triennial period, the guardians and district councillors first elected under this Act shall retire on the fifteenth day of April one thousand eight hundred and ninety-eight.

(6) Of the first urban district councillors elected under this Act, the third who are respectively to retire on the fifteenth day of April one thousand eight hundred and ninety-six and one thousand eight hundred and ninety-seven shall be determined according to their place on the poll at the election, those that were lowest on the poll retiring first. If there was no poll, or if a question arises in consequence of an equality of votes between two or more councillors, the matter shall be determined by ballot conducted under the direction of the council.

(7) In the case of an urban district divided into wards, the foregoing provisions with respect to retirement shall apply separately to each ward.

(8) Upon the day on which the first guardians and urban or rural district councillors elected under this Act come into office,⁶ the persons who are then members of boards of guardians, and urban and rural sanitary authorities, shall cease to hold office, but until that day the persons who are at the passing of this Act guardians and members of urban sanitary authorities (for urban districts not being boroughs) and of highway boards shall continue in office notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day, and, except for the purpose of filling casual vacancies or electing additional guardians, no further elections shall be held.

(9) The first meeting of each district council elected

under this Act shall be convened by the returning officer.⁷ Sec. 79.

(10) The foregoing provisions shall apply to the existing members and first members elected under this Act of the local board of Woolwich and of any vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same, and to the existing and first auditors elected under those Acts⁸ in like manner as if they were members of urban sanitary authorities or urban district councillors, as the case may require, except that the date of the annual election shall be substituted for the fifteenth day of April.

(11) The overseers of any parish divided by this Act shall, until the first appointment of overseers next after the appointed day,⁹ continue in office as if they were overseers of each part of the said parish, which by reason of such division becomes a separate parish.

¹ As to the date of holding the first elections *see* Section 84 (1).

² The regulations of the Local Government Board issued up to the present time are printed in the Appendix.

³ As to parishes divided by this Act *see* Sections 1 (3) and 36.

⁴ Such an order may, for instance, add a part of the parish so divided to a neighbouring parish, in which case a guardian or district councillor for the added part might not be required.

⁵ *See* sub-section 5.

⁶ As to date of coming into office *see* Section 84 (2).

⁷ *See* the rules issued by the Local Government Board under this Act.

⁸ As to the election of members of Woolwich Local Board and of London vestrymen and auditors *see* Section 31.

⁹ Appointed day, *see* Section 84 (4). The first appointment of overseers next after that day will take place at the annual meeting of the parish council, which will be held on or within seven days of the 15th April, 1895 (*see* Section 3 [4] and [7]); or, if there is no parish council, at the annual assembly of the parish meeting, which must be held on the 25th March, 1895, or within seven days before or after that day (*see* Section 19 [1] and Schedule I [1] [1]).

The following extract from a circular letter issued by the Local Government Board on 3rd April, 1894, deals with the election of various officers and committees:—

Section 79 (8) of the Act, which continues in office, until the day on which the first guardians and rural district councillors elected under the Act come into office, the persons who were members of boards of guardians and of rural sanitary authorities at the date of the passing of the Act, does not refer to the *chairmen or vice-chairmen or members of committees*, as such. In those cases where the orders in force require that the election of chairmen and vice-chairmen should take place at the first meeting of the guardians after the 15th April, the period of office of the chairmen or vice-chairmen will not be affected, and they must therefore be elected at the usual time this year. As regards

Note to
Sec. 79.

an *assessment committee* appointed under the Union Assessment Committee Acts, it appears to the Board that the committee must be regarded as having been appointed for one year only, and consequently that they must be re-appointed in the present year at the usual time. In the case of a *school attendance committee*, Section seven of the Elementary Education Act, 1876, expressly provides that the appointment of the committee shall be made annually, and the Board consider that this committee should be appointed by the guardians at their first meeting after the date on which the election of guardians would have taken place if an election had been held this year at the usual time (see Rule 6 of the Second Schedule to the Act of 1876). The *visiting committee*, however, will, in the opinion of the Board, continue in office until after the election of the new board of guardians in November next, unless the committee were definitely appointed for a limited period only. A *relief committee* will, subject to the terms of the order authorising the appointment of the committee, continue in office until November next without re-appointment, unless the committee were appointed for a limited time. A committee appointed to consider and report on any *special subject* will continue in office after the date on which the guardians would but for the Local Government Act, 1894, have gone out of office, if the business for which the committee were appointed is not completed by that date. A *sanitary committee* appointed under Section two hundred and one of the Public Health Act, 1875, can only continue until the end of the ordinary year of office of the guardians, and the committee must accordingly be re-appointed after that time in the present year, if it is desired that they should still exist.

Power of
county
council to
remove
difficulties.

80. (1) If any difficulty arises with respect to the holding of the first parish meeting¹ of a rural parish, or to the first election of parish¹ or district councillors,² or of guardians,² or of members of the local board of Woolwich,³ or any vestry³ in the county of London, or of auditors³ in the county of London, or to the first meeting of a parish¹ or district council, or board of guardians, or such local board or vestry as aforesaid, or if, from no election being held or an election being defective or otherwise, the first parish or district council, or board of guardians, or local board or vestry has not been properly constituted, or there are no auditors under the Metropolis Management Acts, 1855 to 1890,⁴ or an insufficient number, properly elected, the county council may by order make any appointment or do any thing which appears to them necessary or expedient for the proper holding of any such first meeting or election and properly constituting the parish or district council, board of guardians, local board, or vestry, or auditors, and may, if it appears to them necessary, direct the holding of a meeting or election, and fix the dates for any such

meeting or election, but a parish shall, notwithstanding any such failure to constitute the parish council, be deemed to be a parish having a parish council within the meaning of this Act. Any such order may modify the provisions of this Act,⁵ and the enactments applied by or rules framed under this Act so far as may appear to the county council necessary or expedient for carrying the order into effect. Sec. 80.

(2) The Local Government Board shall make regulations⁶ for expediting and simplifying the procedure under Section fifty-seven of the Local Government Act, 1888, in all cases in the year one thousand eight hundred and ninety-four, for the purpose of bringing this Act into immediate operation, and such regulations may dispense with the final approval of an order by the county council in cases where the prescribed notice of the proposed order has been given before it is made by the county council.

¹ See Section 78 as to the first parish meeting and first election of parish councillors.

² See Section 79 as to first election of guardians and district councillors.

³ As to first meeting of district councils *see* Section 79 (9); of London vestries and district boards and of Woolwich Local Board *see* Section 79 (9) and (10).

⁴ As to these auditors *see* Section 31 (1).

⁵ The widest possible powers are given by this section to county councils to enable them to bring this Act into operation. They may issue an order modifying any of the provisions in this Act, or any other Act applied by it, and in the rules made under it; and they may do this at their uncontrolled discretion so far as they may deem such modification necessary or expedient for carrying their order into effect.

⁶ Regulations for that purpose were issued on the 22nd March, 1894. They are printed in the Appendix, page 403.

81. (1) Where the powers and duties of any authority other than justices are transferred by this Act to any parish or district council, the officers of that authority shall become the officers of that council, and for the purposes of this section the body appointing a surveyor of highways shall be deemed to be a highway authority and any paid surveyor to be an officer of that body. Existing officers.

(2) Where there is in a rural parish an existing vestry clerk appointed under the Vestries Act, 1850, he shall become the clerk of the parish council, and if there is also an assistant overseer in the parish, then, notwithstanding the foregoing provisions¹ of this Act, that 13 & 14 Vict., c. 57.

Sec. 81. assistant overseer shall not, while such vestry clerk holds office, be the clerk of the parish council.

(3) Any existing overseer in a parish for which a parish council is elected shall, unless appointed by a board of guardians,² become an officer of the parish council.

(4) Every such officer, vestry clerk, and assistant overseer, as above in this section mentioned shall hold his office by the same tenure and upon the same terms and conditions as heretofore, and while performing the same duties shall receive not less salary or remuneration than heretofore.

(5) Where a parish or rural sanitary district is divided by this Act, any officer for the parish or district so divided shall hold his office as such officer for each parish or district formed by the division, and his salary shall be borne by the respective parishes or districts in proportion to their rateable value at the commencement of the local financial year next after the passing of this Act.

(6) So much of any enactment as authorises the appointment of assistant overseers by a board of guardians shall be repealed as from the appointed day.

(7) Section one hundred and twenty of the Local Government Act, 1888,³ which relates to compensation to existing officers, shall apply in the case of existing officers affected by this Act, whether officers above in this section mentioned or not, as if references in that section to the county council were references to the parish council, or the district council, or board of guardians or other authority whose officer the person affected is when the claim for compensation arises as the case may require. Provided that all expenses incurred by a district council in pursuance of this section shall be paid as general expenses⁴ of the council, and any expenses incurred by a board of guardians in pursuance of this section shall be paid out of their common fund, and any expenses incurred by any other authority in pursuance of this section shall be paid out of the fund applicable to payment of the salary of the offices affected.

51 & 52 Vict.,
c. 41.

¹ See Section 17 (1 to 3) as to the appointment of a clerk to the parish council.

² See note to Section 5 (1) as to the appointment of assistant overseers.

³ Section 120 of the Local Government Act, 1888, is as follows :—

(1) Every existing officer declared by this Act to be entitled to compensation, and every other existing officer, whether before mentioned in this Act or not, who by virtue of this Act, or anything done in pursuance of or in consequence of this Act, suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, shall be entitled to have compensation* paid to him for such pecuniary loss by the county council, to whom the powers of the authority, whose officer he was, are transferred under this Act, regard being had to the conditions on which his appointment was made, to the nature of his office or employment, to the duration of his service, to any additional emoluments which he acquires by virtue of this Act or of anything done in pursuance of or in consequence of this Act, and to the emoluments which he might have acquired if he had not refused to accept any office offered by any council or other body acting under this Act, and to all the other circumstances of the case, and the compensation shall not exceed the amount which, under the Acts and rules relating to Her Majesty's Civil Service, is paid to a person on abolition of office.

Note to
Sec. 81.

(2) Every person who is entitled to compensation, as above mentioned, shall deliver to the county council a claim under his hand setting forth the whole amount received and expended by him or his predecessors in office, in every year during the period of five years next before the passing of this Act, on account of the emoluments for which he claims compensation, distinguishing the offices in respect of which the same have been received, and accompanied by a statutory declaration under the Statutory Declaration Act, 1835, that the same is a true statement according to the best of his knowledge, information, and belief.

(3) Such statement shall be submitted to the county council, who shall forthwith take the same into consideration, and assess the just amount of compensation (if any), and shall forthwith inform the claimant of their decision.

(4) If a claimant is aggrieved by the refusal of the county council to grant any compensation, or by the amount of compensation assessed, or if not less than one third of the members of such council subscribe a protest against the amount of the compensation as being excessive, the claimant or any subscriber to such protest (as the case may be) may, within three months after the decision of the council, appeal to the Treasury, who shall consider the case and determine whether any compensation, and if so, what amount ought to be granted to the claimant, and such determination shall be final.

(5) Any claimant under this section, if so required by any member of the county council, shall attend at a meeting of the council and answer upon oath, which any justice present may administer, all questions asked by any member of the council touching the matters set forth in his claim, and shall further produce all books, papers, and documents in his possession or under his control relating to such claim.

(6) The sum payable as compensation to any person in pursuance of this section shall commence to be payable at the date fixed by the council on granting the compensation, or in case of appeal, by the Treasury, and shall be a specialty debt due to him from the

* See *West v. Wilts County Council*, (1893) 10 T. L. R. 19.

Note to Sec. 81. county council, and may be enforced accordingly in like manner as if the council had entered into a bond to pay the same.

(7) If a person receiving compensation in pursuance of this section is appointed to any office under the same or any other county council, or by virtue of this Act, or anything done in pursuance of or in consequence of this Act, receives any increase of emoluments of the office held by him, he shall not, while receiving the emoluments of that office, receive any greater amount of his compensation, if any, than with the emoluments of the said office, is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation shall be suspended while he holds such office.

(8) All expenses incurred by a county council in pursuance of this section shall be paid out of the county fund, as a payment for general county purposes.

⁴ For definition of "general expenses" see note to Section 29.

Provision as to highways.

82. (1) Where before the appointed day¹ the highway expenses were charged on a particular parish or other area and not on a district,² the district council may determine that the highways in that parish or area shall be placed in proper repair before the expenses of repairing the same become a charge upon the district, and, failing such highways being placed in proper repair to the satisfaction of the district council, the district council may themselves place the highways in proper repair, and the expense incurred by them of placing those highways in proper repair shall be a separate charge on the parish or area, and any question which arises as to whether any such expenses are properly a separate charge on the parish or area shall be determined by the county council.³

(2) Where in pursuance of an order of a county council a parish continues to maintain its own highways after the appointed day,¹ the highway expenses shall not be deemed to be expenses of the parish council or of the parish meeting within the meaning of this Act.⁴

¹ Appointed day; see Section 84 (4).

² That is, not on a highway district.

³ The section gives an appeal to the county council against a decision of the district council that the expense incurred by the latter in repairing highways hitherto repairable by a particular parish or area shall be charged upon that parish or area. In effect the questions for the county council will be—was the highway in proper repair on the appointed day? If not, and if it was afterwards repaired at the request of the district council—was it put into proper repair? If again the answer is no, the third question may arise—have the district council done more in the matter of repairing the highway than the parish or area could have been properly required to do? Only the expense required to repair the highway

as the parish or area could properly be required to repair it, can be made a separate charge on that parish or area.

Note to
Sec. 82.

⁴ That is, the parish council may annually pay the expense of maintaining its own highways in pursuance of an order of the county council under Section 25 (1) of this Act, in addition to the annual sum, equal to a rate of sixpence in the pound, which is their ordinary limit of expenditure under Section 11 (3) of this Act. As to limit in small parishes *see* Section 19 (9).

83. It shall be the duty of every county council to exercise all such of their powers as may be requisite for bringing this Act into full operation within their county as soon as may be after the passing thereof,¹ and a county council may delegate² their powers under this Act to a committee.

Duty of
county
council to
bring Act
into
operation.

¹ As to the limit of time within which the county council may make orders dealing with areas or boundaries *see* Section 36 (13); as to framing scales of expenses in first elections *see* Section 48 (7).

² As to the meaning of "delegate" *see* note to Section 15.

84. (1) The first elections¹ under this Act shall be held on the eighth day of November next after the passing of this Act, or such later date or dates in the year one thousand eight hundred and ninety-four as the Local Government Board may fix.

Appointed
day.

(2) The persons elected shall come into office on the second Thursday next after their election,² or such other day not more than seven days earlier or later as may be fixed by or in pursuance of the rules³ made under this Act in relation to their election.

(3) Every division into wards⁴ or alteration of the boundaries⁵ of any parish or union or district which is to affect the first election shall, if it affects the parishes or parts for which the registers of parochial electors will be made, be made so far as practicable before the first day of July next after the passing of this Act, and any such division or alteration which after the appointed day⁶ may be made on application by the parish council or any parochial electors of any parish,⁷ may be made before the appointed day⁶ on application by the vestry or a like number of the ratepayers of the parish.

Provided that—

(a) If any county council having any such division or alteration under consideration so direct, the lists of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish, union, or district, or for the same when divided or altered; and

Sec. 84.

- (b) If the county council making such division or alteration on or after the said day and on or before the last day of August one thousand eight hundred and ninety-four so direct, the clerk of the county council shall make such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward, union, or district in which his qualification is situate, and in that case the said division or alteration shall be observed in the case of that election.
- (4) Subject as in this Act mentioned, "the appointed day" shall,
- (a) for the purpose of elections and of parish meetings in parishes not having a parish council, be the day or respective days fixed for the first elections¹ under this Act, or such prior day as may be necessary for the purpose of giving notices or doing other acts preliminary to such elections; and
- (b) for the purpose of the powers, duties, and liabilities of councils or other bodies elected under this Act, or other matters not specifically mentioned, be the day on which the members of such councils or other bodies first elected under this Act come into office;² and
- (c) for the purpose of powers, duties, and liabilities transferred to a council of a borough by this Act, be the first day of November next after the passing of this Act;

and the lists and registers of parochial electors shall be made out in such parts as may be necessary for the purpose of the first elections under this Act.

Provided that where an order of a county council postpones the operation of the section⁹ with respect to highways as respects their county or any part thereof the day on which such postponement ceases shall, as respects such county or part, be the appointed day, and the order of postponement shall make such provision as may be necessary for holding elections of highway boards during the interval before the appointed day.

¹ Election includes both the nomination and the poll (Section 75) (p. 178).

² This date of coming into office only applies to the first elections under this Act.

³ The regulations issued by the Local Government Board up to the present time are printed in the Appendix, p. 401.

⁴ As to division into wards, *see* Section 18 as to parishes, Section 20 (3) as to unions, Section 271 Public Health Act, 1875, as to urban districts which are districts of local boards. **Note to Sec. 84.**

⁵ As to alteration of boundaries *see* Section 36.

⁶ The "appointed day" is fixed in the next sub-section.

⁷ Application for division of a parish into wards may be made to the county council by not less than one tenth of the parochial electors of the parish (Section 18 [1]).

⁸ As to the day of first coming into office *see* Sub-section 2.

⁹ That is, Section 25 (p. 113).

85. (1) Every rate and precept for contributions made before the appointed day¹ may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if this Act had not passed. **Current rates, &c.**

(2) The accounts of all receipts and expenditure before the appointed day¹ shall be audited,² and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act had not passed, but as soon as practicable after the appointed day;¹ and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day.¹

(3) All proceedings, legal and other, commenced before the appointed day,¹ may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act.

(4) Every valuation list made for a parish divided by this Act³ shall continue in force until a new valuation list is made.

(5) The change of name of an urban sanitary authority⁴ shall not affect their identity as a corporate body or derogate from their powers, and any enactment in any Act, whether public general or local and personal,⁵ referring to the members of such authority shall, unless inconsistent with this Act, continue to refer to the members of such authority under its new name.

¹ *See* Section 84 (4) for definition of "appointed day."

² For provisions as to audit *see* Section 58 and note thereon.

³ *See* Section 1 (3) and Section 36.

Note to
Sec. 85.

⁴ As to change of name of urban sanitary authority *see* Sections 21 (1) and 55 (3).

⁵ *See* Section 75 for definition of "local and personal Act" (p. 180).

Saving for
existing
securities
and
discharge
of debts.

86. (1) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or property transferred to a council or parish meeting by this Act; and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a council or parish meeting shall be discharged, paid, and satisfied by that council or parish meeting, and where for that purpose it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for this Act, that rate may continue to be levied and that power to be exercised either by the authority who otherwise would have levied or exercised the same, or by the transferee as the case may require.¹

(2) It shall be the duty of every authority whose powers, duties, and liabilities are transferred by this Act to liquidate so far as practicable before the appointed day,³ all current debts and liabilities incurred by such authority.

¹ Where it is necessary for a parish council to levy a rate in the circumstances specified in this section, it would appear that such rate may be levied in addition to the sixpenny rate mentioned in Section 11 (3). Compare Section 82 (2).

² Appointed day, *see* Section 84 (4).

Saving for
existing
bye-laws.

87. All such bye-laws, orders, and regulations of any authority, whose powers and duties are transferred by this Act to any council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly.

Saving for
pending
contracts, &c.

88. (1) If at the time when any powers, duties, liabilities, debts, or property are by this Act transferred to a council or parish meeting, any action or proceeding, or any cause of action or proceeding, is pending or existing by or against any authority in relation thereto the same shall not be in anywise prejudicially affected by the passing of this Act, but may be continued, prosecuted, and enforced by or against the council or parish meeting as successors of the said authority in like manner as if this Act had not been passed.

(2) All contracts, deeds, bonds, agreements, and

other instruments subsisting at the time of the transfer in this section mentioned, and affecting any of such powers, duties, liabilities, debts, or property, shall be of as full force and effect against or in favour of the council or parish meeting, and may be enforced as fully and effectually as if, instead of the authority, the council or parish meeting had been a party thereto. Sec. 88.

89. The Acts specified in the Second Schedule to this Act are hereby repealed as from the appointed day¹ to the extent in the third column of that schedule mentioned, and so much of any Act, whether public general or local and personal, as is inconsistent with this Act is also hereby repealed. Provided that where any wards of an urban district have been created, or any number of members of an urban sanitary authority fixed, by or in pursuance of any local and personal Act, such wards and number of members shall continue and be alterable in like manner as if they had been fixed by an order of the county council under this or any other Act. Repeal.

¹ See Section 84 (4) as to appointed day. The Second Schedule will be found on pages 198—201.

SCHEDULES.

FIRST SCHEDULE.

RULES AS TO PARISH MEETINGS, PARISH COUNCILS, AND COMMITTEES.

PART ONE.

Rules applicable to Parish Meetings.

(1) The annual assembly of the parish meeting shall be held on the twenty-fifth day of March in each year, or within seven days before or after that day. Section 2.

(2) Not less than seven clear days before any parish meeting, public notice thereof shall be given specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by the chairman of the parish council or other conveners of the meeting.

(3) If the business relates to the establishment or dissolution of a parish council, or the grouping of a parish, or the adoption of any of the adoptive Acts, not less than fourteen days' notice shall be given.

(4) A parish meeting may discuss parish affairs and pass resolutions thereon.

(5) Every question to be decided by a parish meeting shall, in the first instance, be decided by the majority of those present and voting on the question, and the chairman shall announce his decision as to the result, and that decision shall be final, unless a poll is demanded.

(6) A poll may be demanded at any time before the conclusion of a parish meeting.

(7) A poll may be demanded by any one parochial elector in the case of a resolution respecting any of the following matters, namely :

- (a) Any application, representation, or complaint to a county council or district council ;
- (b) The appointment of a chairman for the year or of a committee, or the delegation of any powers or duties to a committee, or the approval of the acts of a committee ;
- (c) The appointment of an overseer, the appointment or revocation of the appointment or dismissal of an assistant overseer or a parish officer ;
- (d) The appointment of trustees or beneficiaries of a charity ;
- (e) The adoption of any of the adoptive Acts ;
- (f) The formation or dissolution of a school board ;
- (g) The consent or refusal of consent to any act, matter, or thing which cannot by law be done without that consent.
- (h) The incurring of any expense or liability ;
- (i) The place and time for the assembly of the parish meeting ;
- (k) Any other prescribed matter ;

but, save as aforesaid, a poll shall not be taken unless either the chairman of the meeting assents, or the poll is demanded by parochial electors present at the meeting, not being less than five in number or one third of those present, whichever number is least.

(8) In case of an equal division of votes at a parish meeting the chairman shall have a second or casting vote.

(9) Where a parish meeting is held for the election of parish councillors, opportunity shall be given at the meeting for putting questions to such of the candidates as are present, and receiving explanations from them, and any candidate shall be entitled to attend the meet-

ing and speak thereat, but, unless he is a parochial elector, not to vote.

(10) If the chairman of the parish meeting is absent from or unwilling or unable to take the chair at any assembly of the parish meeting, the meeting may appoint a person to take the chair, and that person shall have, for the purpose of that meeting, the powers and authority of the chairman.

(11) Any notice required to be given to or served on a parish meeting may be given to or served on the chairman of the parish meeting.

PART TWO.

Section 3.

Rules applicable to Parish Councils.

(1) Every parish councillor shall, at the first meeting after his election, or if the council at the first meeting so permit, then at a later meeting fixed by the council, sign, in the presence of some member of the council, a declaration that he accepts the office, and if he does not sign such a declaration his office shall be void.

(2) If any casual vacancy arises in the council, the council shall forthwith be convened for filling the vacancy.

(3) The first business at the annual meeting shall be to elect a chairman and to appoint the overseers.

(4) The chairman may at any time convene a meeting of the parish council. If the chairman refuses to convene a meeting of the council after a requisition for that purpose signed by two members of the council has been presented to him, any two members of the council may forthwith, on that refusal, convene a meeting. If the chairman (without so refusing) does not within seven days after such presentation, convene a meeting, any two members of the council may, on the expiration of those seven days, convene a meeting.

(5) Three clear days at least before any meeting of a parish council notice thereof, specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by or on behalf of the chairman of the parish council or persons convening the meeting, shall be given to every member of the parish council, and in case of the annual meeting notice specifying the like particulars shall be given to every member of the parish council immediately after his election.

(6) Any notice required by law to be given to the

chairman or any other member of the parish council may be left at or sent by post to the usual place of abode of such chairman or member.

(7) No business shall be transacted at any meeting of a parish council unless at least one third of the full number of members are present thereat, subject to this qualification, that in no case shall the quorum be less than three.

(8) The names of the members present at any meeting of the parish council, as well as of those voting on each question on which a division is taken, shall be recorded, so as to show whether each vote given was for or against the question.

(9) Every question at a meeting of a parish council shall be decided by a majority of votes of the members present and voting on that question.

(10) In case of an equal division of votes the chairman of the meeting shall have a second or casting vote.

(11) The parish council may, if they think fit, appoint one of their number to be vice-chairman, and the vice-chairman shall, in the absence or during the inability of the chairman, have the powers and authority of the chairman.

(12) The proceedings of a parish council shall not be invalidated by any vacancy among their members, or by any defect in the election or qualification of any members thereof.

(13) A parish council shall hold not less than four meetings in each year, of which one shall be the annual meeting and every such meeting shall be open to the public unless the council otherwise direct.

(14) Every cheque or other order for payment of money by a parish council shall be signed by two members of the council.

(15) Any notice requiring to be given to or served on a parish council may be given to or served on the clerk to the parish council.

(16) The parish council may appear before any court or in any legal proceeding by their clerk or by any officer or member authorised generally or in respect of any special proceeding by resolution of the council, and their clerk or any member or officer shall, if so authorised, be at liberty to institute and carry on any proceeding which the parish council are authorised to institute and carry on.

PART THREE.

General.

(1) Minutes of the proceedings of every parish council and parish meeting shall be kept in a book provided for that purpose. Sections 2, 3.

(2) A minute of proceedings at a meeting of a parish council, or of a committee of a parish or district council, or at a parish meeting, signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(3) Until the contrary is proved, every meeting in respect of the proceedings whereof a minute has been so made shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a committee, the committee shall be deemed to have been duly constituted, and to have had power to deal with the matters referred to in the minutes.

(4) Any instrument purporting to be executed under the hands or under the hands and seals of the chairman and of two other members of a parish council or of a parish meeting shall, until the contrary is proved, be deemed to have been duly so executed.

(5) Subject to the provisions of this Act, a parish council may make, vary, and revoke standing orders for the regulation of their proceedings and business, and of the proceedings and business at parish meetings for a rural parish having a parish council.

(6) Where there is no council for a rural parish, the parish meeting may, subject to the provisions of this Act, regulate their own proceedings and business.

PART FOUR.

Proceedings of Committees of Parish or District Councils.

(1) The quorum, proceedings, and place of meeting of a committee, whether within or without the parish or district, and the area (if any) within which the committee are to exercise their authority, shall be such as may be determined by regulations of the council or councils appointing the committee. Section 56

(2) Subject to such regulations, the quorum, proceedings, and place of meeting, whether within or without the parish or district, shall be such as the committee direct, and the chairman at any meeting of the committee shall have a second or casting vote.

[*Rules applicable to Urban District Councils (other than Borough Councils), and to Rural District Councils and Boards of Guardians (see Section 59 Local Government Act, 1894).*]

These rules will be found in the Appendix at the end of the Public Health Act, 1875, p. 383.]

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Section 89.

Session and Chapter.	Short Title.	Extent of Repeal.
54 Geo. 3, c. 91	An Act to amend so much of an Act passed in the forty-third year of Her late Majesty Queen Elizabeth, as concerns the time for appointing overseers of the poor	The whole Act, so far as it relates to rural parishes.
58 Geo. 3, c. 69	The Vestries Act, 1818	Sections one, two, three, and four, so far as they relate to parish meetings and parish councils under this Act.
59 Geo. 3, c. 85	The Vestries Act, 1819	The whole Act, so far as it relates to parish meetings under this Act.
1 & 2 Will. 4, c. 60	The Vestries Act, 1831	The whole Act, so far as it relates to parish meetings under this Act, except Section thirty-nine.

Session and Chapter.	Short Title.	Extent of Repeal.
4 & 5 Will. 4, c. 76	The Poor Law Amendment Act, 1834	<p>In Section thirty-eight the words "and the said guardians shall be elected by the ratepayers and by such owners of property in the parishes forming such union as shall in manner hereinafter mentioned require to have their names entered as entitled to vote as owners in the books of such parishes respectively;" and from "and also fix a qualification" to "for the ensuing year shall be chosen;" and from "and every justice of the peace" to "as such elected guardians;" and from "Provided also" to the end of the section.</p> <p>Section thirty-nine, from "and every justice" to the end of the section.</p> <p>In Section forty, the words "In all cases of the election of guardians under this Act or."</p> <p>Section forty-one.</p> <p>Section forty-eight from "Provided always" to the end of the section, so far as the words repealed relate to the office of parish or district councillor or guardian.</p>
5 & 6 Will. 4, c. 50	The Highway Act, 1835	<p>In Section forty-eight, the words "with consent in writing of the justices of the peace at a special sessions for the highways" and the words "at and for such price as the said justices may deem fair and reasonable."</p>
7 Will. 4; & 1 Vict., c. 45	The Parish Notices Act, 1837	<p>Section three, so far as it relates to notices by parish councils and notices of parish meetings under this Act.</p>
5 & 6 Vict., c. 57	The Poor Law Amendment Act, 1842	<p>Section eight, Section eleven, from "and in every case" to the end of the section, and Section fifteen.</p>
7 & 8 Vict., c. 101	The Poor Law Amendment Act, 1844	<p>Sections seventeen, twenty, and twenty-four, and Section sixty-one from "and wherever any such collector" to "provisions of this Act."</p>
13 & 14 Vict., c. 57	The Vestries Act, 1850	<p>Sections six, seven, eight, and nine, so far as they relate to parish meetings under this Act.</p>
14 & 15 Vict., c. 105	The Poor Law Amendment Act, 1851	<p>Section two and Section three.</p>

Session and Chapter.	Short Title.	Extent of Repeal.
16 & 17 Vict., c. 65	The Vestries Act, 1853	The whole Act, so far as it relates to parish meetings under this Act.
18 & 19 Vict., c. 120	The Metropolis Management Act, 1855	Section six. Sections thirteen to twenty-seven. In Section thirty the words "or custom." Section fifty-four. In Section two hundred and thirty-five the words "under this Act," where they secondly occur.
19 & 20 Vict., c. 112	The Metropolis Management Amendment Act, 1856	Sections six, seven, and eight.
23 & 24 Vict., c. 30	The Public Improvements Act, 1860	In Section four the words "in value."
25 & 26 Vict., c. 102	The Metropolis Management Amendment Act, 1862	Section thirty-six; and Section forty from "by rating" to "of such parish."
25 & 26 Vict., c. 103	The Union Assessment Act, 1862	In Section two the words "consisting partly of ex officio and partly of elected guardians," and from "Provided always" to the end of the section. In Section five the words "ex officio or elected," in both places where they occur, and the words "as the case may be."
30 & 31 Vict., c. 6	The Metropolitan Poor Act, 1867	Section seventy-nine.
30 & 31 Vict., c. 106	The Poor Law Amendment Act, 1867	Sections four, five, six, and nine; Section ten so far as it relates to elections of guardians, and Section twelve.
31 & 32 Vict., c. 122	The Poor Law Amendment Act, 1868	Section four from "and the powers" to the end of the section.
38 & 39 Vict., c. 55	The Public Health Act, 1875	Section eight from "and the number" to the end of the section. In Section nine, from "Provided that (1) an ex officio guardian" to "situated in an urban district" (being the provisoes); and the words "from owners or occupiers of property situated in the rural district of a value sufficient to qualify them as elective guardians for a union," and from "Subject to the provisions of this Act" to the end of the section. Section two hundred, except so far

Session and Chapter.	Short Title.	Extent of Repeal.
		as it applies to boroughs; Sections two hundred and one and two hundred and four, Section two hundred and forty-eight, except so far as it relates to overseers, and Section three hundred and twelve.
		So much of Schedule I as relates to committees, and Schedule II.
39 & 40 Vict., c. 61	The Divided Parishes and Poor Law Amendment Act, 1876	Section six, from "The meeting of inhabitants" to the end of the section, so far as it relates to rural parishes. Section eight to "no alteration," except as to cases where a parish is dealt with by order of the Local Government Board.
39 & 40 Vict., c. 79	The Elementary Education Act, 1876	In Section seven the words "so however that in the case of a committee appointed by guardians one third at least shall consist of ex officio guardians, if there are any and sufficient ex officio guardians."
47 & 48 Vict., c. 70	The Municipal Elections (Corrupt and Il- legal Practices) Act, 1844	Section thirty-six, from "(h) The Local Government Board" to "validity of any vote."
48 & 49 Vict., c. 53	The Public Health (Members and Officers) Act, 1885	Sections three and four.
55 & 56 Vict., c. 53	The Public Libraries Act, 1892	Subsection three of Section one. The first schedule so far as it applies to rural parishes.

APPENDIX.

AGRICULTURAL GANGS.

30 & 31 VICT., CHAP. 130.

An Act for the Regulation of Agricultural Gangs.

[20th August, 1867.]

WHEREAS in certain counties in England certain persons known as gangmasters hire children, young persons, and women with a view to contracting with farmers and others for the execution on their lands of various kinds of agricultural work: And whereas it is expedient to make regulations with respect to the employment of children, young persons, and women by gangmasters:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as "The Agricultural Gangs Act, 1867."

2. This Act shall come into operation on the first of January, One thousand eight hundred and sixty-eight.

3. The following words and expressions shall in this Act have the meanings hereby assigned to them, unless there is something in the context inconsistent with such meanings; that is to say,

"Child" shall mean a child under the age of thirteen years:

"Young person" shall mean a person of the age of thirteen years and under the age of eighteen years:

"Woman" shall mean a female of the age of eighteen years or upwards:

"Gangmaster" shall mean any person, whether male or female, who hires children, young persons, or women with a view to their being employed in agricultural labour on lands not in his own occupation; and, until the contrary is proved, any children, young persons, or women employed in agricultural labour on lands not in the occupation of the person who hired them shall be deemed to have been hired with the aforesaid view:

"Agricultural gang" shall mean a body of children, young persons, and women, or any of them, under the control of a gangmaster.

4. The following regulations shall be observed by every gangmaster with respect to the employment of children, young persons, and women:

(1) No child under the age of eight years shall be employed in any agricultural gang:

(2) No females shall be employed in the same agricultural gang with males:

* Section 4 (1) is repealed by 36 and 37 Vict., c. 67, s. 16 (Agricultural Children), which was itself repealed by the Elementary Education Act, 1876, Section 52. Section 5 of the latter Act and Section 4 of the Elementary Education Act, 1880, prohibit employment of children under ten; and forbid under penalty the employment of children between ten and thirteen years of age unless the child has obtained the certificate there specified.

Sec. 4.

(3) No female shall be employed in any gang under any male gangmaster unless a female licensed to act as gangmaster is also present with that gang:

And any gangmaster employing any child, young person, or woman in contravention of this section, and any occupier of land on which such employment takes place, unless he proves that it took place without his knowledge, shall respectively be liable to a penalty not exceeding twenty shillings for each child, young person, or woman so employed.

Gangmasters
to be
licensed.

5. No person shall act as a gangmaster unless he has obtained a licence to act as such under this Act.

Any person acting as a gangmaster without a licence under this Act shall incur a penalty not exceeding twenty shillings for every day during which he so acts.

Licences not
to be granted
to keepers
of public-
houses.

6. No licence shall be granted to any person who is licensed to sell beer, spirits, or any other excisable liquor.

Licences
to gang-
masters.

7. Licences to gangmasters shall be granted by two or more justices* in divisional petty sessions, on due proof to the satisfaction of such justices that the applicant for a licence is of good character, and a fit person to be intrusted with the management of an agricultural gang.

The justices* shall annex to their licence a condition limiting, in such manner as they think expedient, the distances within which the children employed by such gangmaster are to be allowed to travel on foot to their work, and any gangmaster violating the condition so annexed to his licence shall for each offence be liable to a penalty not exceeding ten shillings.

Any person aggrieved by the refusal of the justices to grant him a licence to act as gangmaster may appeal to the next practicable court of general or quarter sessions; and it shall be lawful for such court, if they see cause, to grant a licence to the applicant, which shall be of the same validity as if it had been granted by the justices in petty sessions.

Renewal of
licences.

8. Licences under this Act shall be in force for six months only, and may be renewed on similar proof to that on which an original licence is granted.

Fees in re-
spect of
licences.

9. There shall be charged in respect of each grant or renewal of licence a fee of one shilling, and such fee shall be accounted for and applied in manner in which the fees ordinarily received by the authority granting the licence are applicable.

Licence how
affected by
conviction of
gangmaster.

10. On any conviction of a gangmaster of any offence against this Act the justices who convict him shall endorse on his licence the fact of such conviction; and on any conviction of such gangmaster of a second offence against this Act the justices may, in addition to any other penalty, withhold his licence for a period not exceeding three months; and on any conviction of any gangmaster of a third offence against this Act the justices may, in addition to any other penalty, withhold his licence for a period not exceeding two years.

And after a fourth conviction for an offence against this Act the gangmaster shall be disqualified from holding or receiving a licence under this Act.

Recovery of
penalties.

11. All penalties under this Act may be recovered summarily before two or more justices in manner directed by an Act passed in the session holden in the eleventh and twelfth years of the reign

11 & 12 Vict.,
c. 43.

* See page 118, ante.

of Her Majesty Queen Victoria, Chapter forty-three, intituled, "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders, or any Act amending the same." Sec. 11.

12. This Act shall not apply to Scotland or Ireland.

Extent of Act.

AGRICULTURAL HOLDINGS (ENGLAND) ACT, 1883.

46 & 47 VICT., CHAP. 61.

An Act for amending the Law relating to Agricultural Holdings in England. [25th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I.

IMPROVEMENTS.

*Compensation for Improvements.**

1. Subject as in this Act mentioned, where a tenant has made on his holding any improvement comprised in the First Schedule hereto, he shall, on and after the commencement of this Act, be entitled on quitting his holding at the determination of a tenancy to obtain from the landlord as compensation under this Act for such improvement such sum as fairly represents the value of the improvement to an incoming tenant: Provided always, that in estimating the value of any improvement in the First Schedule hereto there shall not be taken into account as part of the improvement made by the tenant what is justly due to the inherent capabilities of the soil. General right of tenant to compensation.

As to Improvements executed before the Commencement of Act.

2.

As to Improvements executed after the Commencement of Act.

3. Compensation under this Act shall not be payable in respect of any improvement mentioned in the first part of the First Schedule hereto, and executed after the commencement of this Act, unless the landlord, or his agent duly authorised in that behalf, has, previously to the execution of the improvement and after the passing of this Act, consented in writing to the making of such improvement, and any such consent may be given by the landlord unconditionally, or upon such terms as to compensation, or otherwise, as may be agreed upon between the landlord and the tenant, and in the event of any agreement being made between the land- Consent of landlord as to improvement in First Schedule, Part I.

* When land is mortgaged and the mortgagee takes possession, compensation to tenants for improvements is regulated by this Act as amended by the Tenants Compensation Act, 1890 (53 and 54 Vict., c. 57).

Sec. 3.

Notice to
landlord as
to improve-
ment in First
Schedule,
Part II.

lord and the tenant, any compensation payable thereunder shall be deemed to be substituted for compensation under this Act.

4. Compensation under this Act shall not be payable in respect of any improvement mentioned in the second part of the First Schedule hereto, and executed after the commencement of this Act, unless the tenant has, not more than three months and not less than two months before beginning to execute such improvement, given to the landlord, or his agent duly authorised in that behalf, notice in writing of his intention so to do, and of the manner in which he proposes to do the intended work, and upon such notice being given, the landlord and tenant may agree on the terms as to compensation or otherwise on which the improvement is to be executed, and in the event of any such agreement being made, any compensation payable thereunder shall be deemed to be substituted for compensation under this Act, or the landlord may, unless the notice of the tenant is previously withdrawn, undertake to execute the improvement himself, and may execute the same in any reasonable and proper manner which he thinks fit, and charge the tenant with a sum not exceeding five pounds per centum per annum on the outlay incurred in executing the improvement, or not exceeding such annual sum payable for a period of twenty-five years as will repay such outlay in the said period, with interest at the rate of three per centum per annum, such annual sum to be recoverable as rent. In default of any such agreement or undertaking, and also in the event of the landlord failing to comply with his undertaking within a reasonable time, the tenant may execute the improvement himself, and shall in respect thereof be entitled to compensation under this Act.

The landlord and tenant may, if they think fit, dispense with any notice under this section, and come to an agreement in a lease or otherwise between themselves in the same manner and of the same validity as if such notice had been given.

Reservation
as to existing
and future
contracts of
tenancy.

5. Where, in the case of a tenancy under a contract of tenancy current at the commencement of this Act, any agreement in writing or custom, or the Agricultural Holdings (England) Act, 1875, provides specific compensation for any improvement comprised in the First Schedule hereto, compensation in respect of such improvement, although executed after the commencement of this Act, shall be payable in pursuance of such agreement, custom, or Act of Parliament, and shall be deemed to be substituted for compensation under this Act.

Where in the case of a tenancy under a contract of tenancy beginning after the commencement of this Act, any particular agreement in writing secures to the tenant for any improvement mentioned in the third part of the first schedule hereto, and executed after the commencement of this Act, fair and reasonable compensation, having regard to the circumstances existing at the time of making such agreement, then in such case the compensation in respect of such improvement shall be payable in pursuance of the particular agreement, and shall be deemed to be substituted for compensation under this Act.

The last preceding provision of this section relating to a particular agreement shall apply in the case of a tenancy under a contract of tenancy current at the commencement of this Act in respect of an improvement mentioned in the third part of the First Schedule hereto, specific compensation for which is not provided by any agreement in writing, or custom, or the Agricultural Holdings Act, 1875.

Regulations as to Compensation for Improvements.

6. In the ascertainment of the amount of the compensation under this Act payable to the tenant in respect of any improvement there shall be taken into account in reduction thereof:

Regulations as to compensation for improvements.

- (a) Any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvement; and
- (b) In the case of compensation for manures the value of the manure that would have been produced by the consumption on the holding of any hay, straw, roots, or green crops sold off or removed from the holding within the last two years of the tenancy or other less time for which the tenancy has endured, except as far as a proper return of manure to the holding has been made in respect of such produce so sold off or removed therefrom; and
- (c) Any sums due to the landlord in respect of rent or in respect of any waste committed or permitted by the tenant, or in respect of any breach of covenant or other agreement connected with the contract of tenancy committed by the tenant, also any taxes, rates, and tithe rentcharge due or becoming due in respect of the holding to which the tenant is liable as between him and the landlord.

There shall be taken into account in augmentation of the tenant's compensation—

- (d) Any sum due to the tenant for compensation in respect of a breach of covenant or other agreement connected with a contract of tenancy and committed by the landlord.

Nothing in this section shall enable a landlord to obtain under this Act compensation in respect of waste by the tenant or of breach by the tenant committed or permitted in relation to a matter of husbandry more than four years before the determination of the tenancy.

Procedure.

7. A tenant claiming compensation under this Act shall, two months at least before the determination of the tenancy,* give notice in writing to the landlord of his intention to make such claim.

Notice of intended claim.

Where a tenant gives such notice, the landlord may, before the determination of the tenancy, or within fourteen days thereafter, give a counter-notice in writing to the tenant of his intention to make a claim in respect of any waste or any breach of covenant or other agreement.

Every such notice and counter-notice shall state, as far as reasonably may be, the particulars and amount of the intended claim.

8. The landlord and the tenant may agree on the amount and mode and time of payment of compensation to be paid under this Act.

Compensation agreed or settled by reference.

If in any case they do not so agree the difference shall be settled by a reference.†

* "Determination of the tenancy" takes place when the tenant's holding under the custom of the country ends. *Ex parte* Portarlington (Earl of) *in re* Paul, 24 Q. B. D. 247; 59 L. J. Q. B. 30; 61 L. T. 835; 54 J. P. 644.

† Section 8 Agricultural Holdings Act, 1883, makes arbitration compulsory in cases between agricultural tenant and his landlord. *Schofield v. Hineks* (58 L. J. Q. B. 147; 60 L. T. 573; 37 W. R. 157). *Shrubb v. Lee* (59 L. T. 376; 53 J. P. 54); award partly under the Agricultural Holdings Act, 1883, partly outside it: held outside it.

Appointment
of referee or
referees and
umpire.

9. Where there is a reference under this Act, a referee, or two referees and an umpire, shall be appointed as follows:—

- (1) If the parties concur, there may be a single referee appointed by them jointly:
- (2) If before award the single referee dies or becomes incapable of acting, or for seven days after notice from the parties, or either of them, requiring him to act, fails to act, the proceedings shall begin afresh, as if no referee had been appointed:
- (3) If the parties do not concur in the appointment of a single referee, each of them shall appoint a referee:
- (4) If before award one of two referees dies or becomes incapable of acting, or for seven days after notice from either party requiring him to act, fails to act, the party appointing him shall appoint another referee:
- (5) Notice of every appointment of a referee by either party shall be given to the other party:
- (6) If for fourteen days after notice by one party to the other to appoint a referee, or another referee, the other party fails to do so, then, on the application of the party giving notice, the county court shall within fourteen days appoint a competent and impartial person to be a referee:
- (7) Where two referees are appointed, then (subject to the provisions of this Act) they shall before they enter on the reference appoint an umpire:
- (8) If before award an umpire dies or becomes incapable of acting, the referees shall appoint another umpire:
- (9) If for seven days after request from either party the referees fail to appoint an umpire, or another umpire, then, on the application of either party, the county court shall within fourteen days appoint a competent and impartial person to be the umpire.
- (10) Every appointment, notice, and request under this section shall be in writing.

Requisition
for appoint-
ment of
umpire by
Land
Commis-
sioners, &c.

10. Provided that, where two referees are appointed, an umpire may be appointed as follows:

- (1) If either party, on appointing a referee, requires, by notice in writing to the other, that the umpire shall be appointed by the Land Commissioners for England,* then the umpire, and any successor to him, shall be appointed, on the application of either party, by those commissioners.
- (2) In every other case, if either party on appointing a referee requires, by notice in writing to the other, that the umpire shall be appointed by the county court, then, unless the other party dissents by notice in writing therefrom, the umpire, and any successor to him, shall on application of either party be so appointed, and in case of such dissent the umpire, and any successor to him, shall be appointed, on the application of either party, by the Land Commissioners* for England.

Exercise of
powers of
county court.

11. The powers of the county court under this Act relative to the appointment of a referee or umpire shall be exercisable by the judge of the court having jurisdiction, whether he is without or

* The Board of Agriculture has been substituted for the Lands Commissioners.

within his district, and may, by consent of the parties, he exercised by the registrar of the court. Sec. 11.

12. The delivery to a referee of his appointment shall be deemed a submission to a reference by the party delivering it; and neither party shall have power to revoke a submission, or the appointment of a referee, without the consent of the other. Mode of submission to reference.

13. The referee or referees or umpire may call for the production of any sample, or voucher, or other document, or other evidence which is in the possession or power of either party, or which either party can produce, and which to the referee or referees or umpire seems necessary for determination of the matters referred, and may take the examination of the parties and witnesses on oath, and may administer oaths and take affirmations; and if any person so sworn or affirming wilfully and corruptly gives false evidence he shall be guilty of perjury. Power for referee, &c., to require production of documents, administer oaths, &c.

14. The referee or referees or umpire may proceed in the absence of either party where the same appears to him or them expedient, after notice given to the parties. Power to proceed in absence.

15. The award shall be in writing, signed by the referee or referees or umpire. Form of award.

16. A single referee shall make his award ready for delivery within twenty-eight days after his appointment. Time for award of referee or referees.

Two referees shall make their award ready for delivery within twenty-eight days after the appointment of the last appointed of them, or within such extended time (if any) as they from time to time jointly fix by writing under their hands, so that they make their award ready for delivery within a time not exceeding in the whole forty-nine days after the appointment of the last appointed of them.

17. In any case provided for by Sections three, four, or five, if compensation is claimed under this Act, such compensation as under any of those Sections is to be deemed to be substituted for compensation under this Act, if and so far as the same can, consistently with the terms of the agreement, if any, be ascertained by the referees or the umpire, shall be awarded in respect of any improvements thereby provided for, and the award shall, when necessary, distinguish such improvements and the amount awarded in respect thereof; and an award given under this Section shall be subject to the appeal provided by this Act. Award in respect of compensation under ss. 3, 4, and 5.

18. Where two referees are appointed and act, if they fail to make their award ready for delivery within the time aforesaid, then, on the expiration of that time, their authority shall cease, and thereupon the matters referred to them shall stand referred to the umpire. Reference to and award by umpire.

The umpire shall make his award ready for delivery within twenty-eight days after notice in writing given to him by either party or referee of the reference to him, or within such extended time (if any) as the registrar of the county court from time to time appoints, on the application of the umpire or of either party, made before the expiration of the time appointed by or extended under this section.

19. The award shall not award a sum generally for compensation, but shall, so far as possible, specify— Award to give particulars.

(a) The several improvements, acts, and things in respect whereof compensation is awarded, and the several matters and things taken into account under the provisions of this Act in reduction or augmentation of such compensation;

- Sec. 19. (b) The time at which each improvement, act, or thing was executed, done, committed, or permitted;
 (c) The sum awarded in respect of each improvement, act, matter, and thing; and
 (d) Where the landlord desires to charge his estate with the amount of compensation found due to the tenant, the time at which, for the purposes of such charge, each improvement, act, or thing in respect of which compensation is awarded is to be deemed to be exhausted.

Cost of
reference.

20. The costs of and attending the reference, including the remuneration of the referee or referees and umpire, where the umpire has been required to act, and including other proper expenses, shall be borne and paid by the parties in such proportion as to the referee or referees or umpire appears just, regard being had to the reasonableness or unreasonableness of the claim of either party in respect of amount, or otherwise, and to all the circumstances of the case.

The award may direct the payment of the whole or any part of the costs aforesaid by the one party to the other.

The costs aforesaid shall be subject to taxation by the registrar of the county court, on the application of either party, but that taxation shall be subject to review by the judge of the county court.

Day for
payment.

21. The award shall fix a day, not sooner than one month after the delivery of the award, for the payment of money awarded for compensation, costs, or otherwise.

Submission
not to be re-
movable, &c.

22. A submission or award shall not be made a rule of any court, or be removable by any process into any court, and an award shall not be questioned otherwise than as provided by this Act.

Appeal to
county
court.

23. Where the sum claimed for compensation exceeds one hundred pounds, either party may, within seven days after delivery of the award, appeal against it to the judge of the county court on all or any of the following grounds:

1. That the award is invalid;
2. That the award proceeds wholly or in part upon an improper application of or upon the omission properly to apply the special provisions of Sections three, four, or five of this Act;
3. That compensation has been awarded for improvements, acts, or things, breaches of covenants or agreements, or for committing or permitting waste, in respect of which the party claiming was not entitled to compensation;
4. That compensation has not been awarded for improvements, acts, or things, breaches of covenants or agreements, or for committing or permitting waste, in respect of which the party claiming was entitled to compensation;

and the judge shall hear and determine the appeal, and may, in his discretion, remit the case to be reheard as to the whole or any part thereof by the referee or referees or umpire, with such directions as he may think fit.

If no appeal is so brought, the award shall be final.

The decision of the judge of the county court on appeal shall be final, save that the judge shall, at the request of either party, state a special case on a question of law for the judgment of the High Court of Justice, and the decision of the High Court on the case, and respecting costs and any other matter connected therewith, shall be final, and the judge of the county court shall act thereon.

24. Where any money agreed or awarded or ordered on appeal to be paid for compensation, costs, or otherwise, is not paid within fourteen days after the time when it is agreed or awarded or ordered to be paid, it shall be recoverable, upon order made by the judge of the county court, as money ordered by a county court under its ordinary jurisdiction to be paid is recoverable. Recovery of compensation.

25. Where a landlord or tenant is an infant without a guardian, or is of unsound mind, not so found by inquisition, the county court, on the application of any person interested, may appoint a guardian of the infant or person of unsound mind for the purposes of this Act, and may change the guardian if and as occasion requires. Appointment of guardian.

26. Any notice, request, demand, or other instrument under this Act may be served on the person to whom it is to be given, either personally or by leaving it for him at his last known place of abode in England, or by sending it through the post in a registered letter addressed to him there; and if so sent by post it shall be deemed to have been served at the time when the letter containing it would be delivered in ordinary course; and in order to prove service by letter it shall be sufficient to prove that the letter was properly addressed and posted, and that it contained the notice, request, demand, or other instrument to be served. Service of notice, &c.

Charge of Tenant's Compensation.

29. A landlord,* on paying to the tenant the amount due to him in respect of compensation under this Act, or in respect of compensation authorised by this Act to be substituted for compensation under this Act, or on expending such amount as may be necessary to execute an improvement under the second part of the First Schedule hereto, after notice given by the tenant of his intention to execute such improvement in accordance with this Act, shall be entitled to obtain from the county court a charge on the holding, or any part thereof, to the amount of the sum so paid or expended. Power for landlord on paying compensation to obtain charge.

The court shall, on proof of the payment or expenditure, and on being satisfied of the observance in good faith by the parties of the conditions imposed by this Act, make an order charging the holding, or any part thereof, with repayment of the amount paid or expended, with such interest, and by such instalments, and with such directions for giving effect to the charge, as the court thinks fit.

But, where the landlord obtaining the charge is not absolute owner of the holding for his own benefit, no instalment or interest shall be made payable after the time when the improvement in respect whereof compensation is paid will, where an award has been made, be taken to have been exhausted according to the declaration of the award, and in any other case after the time when any such improvement will in the opinion of the court, after hearing such evidence (if any) as it thinks expedient, have become exhausted.

The instalments and interest shall be charged in favour of the landlord, his executors, administrators, and assigns.

The estate or interest of any landlord holding for an estate or interest determinable or liable to forfeiture by reason of his creating

* Executors of a landlord who have paid compensation to tenant may obtain from the county court, under Section 29, a charge on the holding to the amount of the sum paid. *Gough v. Gough* (1891), 2 Q. B. 665; 60 L. J. Q. B. 726; 65 L. T. 110; 39 W. R. 593; 55 J. P. 807.

Sec. 29. or suffering any charge thereon shall not be determined or forfeited by reason of his obtaining a charge under this Act, anything in any deed, will, or other instrument to the contrary thereof notwithstanding.

45 & 46 Vict.,
c. 38. Capital money arising under the Settled Land Act, 1882, may be applied in payment of any moneys expended and costs incurred by a landlord under or in pursuance of this Act in or about the execution of any improvement mentioned in the first or second parts of the schedule hereto, as for an improvement authorised by the said Settled Land Act; and such money may also be applied in discharge of any charge created on a holding under or in pursuance of this Act in respect of any such improvement as aforesaid, as in discharge of an incumbrance authorised by the said Settled Land Act to be discharged out of such capital money.

Incidence of
charge.

30. The sum charged by the order of a county court under this Act shall be a charge on the holding, or the part thereof charged, for the landlord's interest therein, and for all interests therein subsequent to that of the landlord; but so that the charge shall not extend beyond the interest of the landlord, his executors, administrators, and assigns, in the tenancy where the landlord is himself a tenant of the holding.

Provision in
case of
trustee.

31. Where the landlord is a person entitled to receive the rents and profits of any holding as trustee, or in any character otherwise than for his own benefit, the amount due from such landlord in respect of compensation under this Act, or in respect of compensation authorised by this Act to be substituted for compensation under this Act, shall be charged* and recovered as follows and not otherwise; (that is to say,)

- (1) The amount so due shall not be recoverable personally against such landlord, nor shall he be under any liability to pay such amount, but the same shall be a charge on and recoverable against the holding only.
- (2) Such landlord shall, either before or after having paid to the tenant the amount due to him, be entitled to obtain from the county court a charge on the holding to the amount of the sum required to be paid or which has been paid, as the case may be, to the tenant.
- (3) If such landlord neglect or fail within one month after the tenant has quitted his holding to pay to the tenant the amount due to him, then after the expiration of such one month the tenant shall be entitled to obtain from the county court in favour of himself, his executors, administrators, and assigns, a charge on the holding to the amount of the sum due to him, and of all costs properly incurred by him in obtaining the charge or in raising the amount due thereunder.
- (4) The court shall on proof of the tenant's title to have a charge made in his favour make an order charging the holding with payment of the amount of the charge, including costs, in like manner and form as in case of a charge which a landlord is entitled to obtain.

Advance
made by a
company.

32. Any company now or hereafter incorporated by Parliament, and having power to advance money for the improvement of land, may take an assignment of any charge made by a county court

* By 53 and 54 Vict., c. 57, s. 3, charges under Section 31 are land charges and must be registered under the Land Charges Registration and Searches Act, 1888.

under the provisions of this Act, upon such terms and conditions as may be agreed upon between such company and the person entitled to such charge; and such company may assign any charge so acquired by them to any person or persons whomsoever.

Sec. 32.

Notice to Quit.

33. Where a half-year's notice,* expiring with a year of tenancy is by law necessary and sufficient for determination of a tenancy from year to year, in the case of any such tenancy under a contract of tenancy made either before or after the commencement of this Act, a year's notice so expiring shall by virtue of this Act be necessary and sufficient for the same, unless the landlord and tenant of the holding, by writing under their hands, agree that this section shall not apply, in which case a half year's notice shall continue to be sufficient; but nothing in this section shall extend to a case where the tenant is adjudged bankrupt, or has filed a petition for a composition or arrangement with his creditors.

Time of notice to quit.

Fixtures.

34. Where after the commencement of this Act a tenant affixes to his holding any engine, machinery, fencing, or other fixture, or erects any building for which he is not under this Act or otherwise entitled to compensation, and which is not so affixed or erected in pursuance of some obligation in that behalf or instead of some fixture or building belonging to the landlord, then such fixture or building shall be the property of and be removable by the tenant before or within a reasonable time after the termination of the tenancy.

Tenant's property in fixtures, machinery, &c.

Provided as follows:

- (1) Before the removal of any fixture or building the tenant shall pay all rent owing by him, and shall perform or satisfy all other his obligations to the landlord in respect to the holding:
- (2) In the removal of any fixture or building the tenant shall not do any avoidable damage to any other building or other part of the holding:
- (3) Immediately after the removal of any fixture or building the tenant shall make good all damage occasioned to any other building or other part of the holding by the removal:
- (4) The tenant shall not remove any fixture or building without giving one month's previous notice in writing to the landlord of the intention of the tenant to remove it:
- (5) At any time before the expiration of the notice of removal the landlord, by notice in writing given by him to the tenant, may elect to purchase any fixture or building comprised in the notice of removal, and any fixture or building thus elected to be purchased shall be left by the tenant, and shall become the property of the landlord, who shall pay the tenant the fair value thereof to an incoming tenant of the holding; and any difference as to the value shall be settled by a reference under this Act, as in case of compensation (but without appeal).

* Difference between a half-year's notice and six months' notice: see *Barlow v. Teal*, 15 Q. B. D. 501; 54 L. J. Q. B. 564; 54 L. T. 63; 34 W. R. 54; 50 J. P. 100.

Crown and Duchy Lands.

Application
of Act to
Crown lands.

35. This Act shall extend and apply to land belonging to Her Majesty the Queen, her heirs and successors, in right of the Crown.

With respect to such lands for the purposes of this Act, the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or one of them, or other the proper officer or body having charge of such land for the time being, or in case there is no such officer or body, then such person as Her Majesty, her heirs or successors, may appoint in writing under the Royal Sign Manual, shall represent Her Majesty, her heirs and successors, and shall be deemed to be the landlord.

Any compensation payable under this Act by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, in respect of an improvement mentioned in the first or second part of the First Schedule hereto, shall be deemed to be payable in respect of an improvement of land within Section one of the Crown Lands Act, 1866, and the amount thereof shall be charged and repaid as in that section provided with respect to the costs, charges, and expenses therein mentioned.

Any compensation payable under this Act by those Commissioners, or either of them, in respect of an improvement mentioned in the third part of the First Schedule hereto, shall be deemed to be part of the expenses of the management of the Land Revenues of the Crown, and shall be payable to those Commissioners out of such money and in such manner as the last-mentioned expenses are by law payable.

Application
of Act to
Duchy of
Lancaster.

36. This Act shall extend and apply to land belonging to Her Majesty, her heirs and successors, in right of the Duchy of Lancaster.

With respect to such land for the purposes of this Act, the Chancellor for the time being of the Duchy shall represent Her Majesty, her heirs and successors, and shall be deemed to be the landlord.

The amount of any compensation payable under this Act by the Chancellor of the Duchy in respect of an improvement mentioned in the first or second part of the First Schedule to this Act shall be deemed to be an expense incurred in improvement of land belonging to Her Majesty, her heirs or successors, in right of the Duchy, within Section twenty-five of the Act of the fifty-seventh year of King George the Third, chapter ninety-seven, and shall be raised and paid as in that section provided with respect to the expenses therein mentioned.

The amount of any compensation payable under this Act by the Chancellor of the Duchy in respect of an improvement mentioned in the third part of the First Schedule to this Act shall be paid out of the annual revenues of the Duchy.

Application
of Act to
Duchy of
Cornwall.

37. This Act shall extend and apply to land belonging to the Duchy of Cornwall.

With respect to such land, for the purposes of this Act, such person as the Duke of Cornwall for the time being, or other the personage for the time being entitled to the revenues and possessions of the Duchy of Cornwall, from time to time, by sign manual, warrant, or otherwise, appoints, shall represent the Duke of Cornwall or other the personage aforesaid, and be deemed to be the landlord, and may do any act or thing under this Act which a landlord is authorised or required to do thereunder.

Any compensation payable under this Act by the Duke of Corn-

wall, or other the personage aforesaid, in respect of an improvement mentioned in the first or second part of the First Schedule to this Act shall be deemed to be payable in respect of an improvement of land within Section eight of the Duchy of Cornwall Management Act, 1863, and the amount thereof may be advanced and paid from the money mentioned in that section, subject to the provision therein made for repayment of sums advanced for improvements.

Sec. 37.

26 & 27 Vict.,
c. 49.

Ecclesiastical and Charity Lands.

38. Where lands are assigned or secured as the endowment of a see, the powers by this Act conferred on a landlord shall not be exercised by the archbishop or bishop, in respect of those lands, except with the previous approval in writing of the Estates Committee of the Ecclesiastical Commissioners for England.

Landlord,
archbishop,
or bishop.

39. Where a landlord is incumbent of an ecclesiastical benefice, the powers by this Act conferred on a landlord shall not be exercised by him in respect of the glebe land or other land belonging to the benefice, except with the previous approval in writing of the patron of the benefice, that is, the person, officer, or authority who, in case the benefice were vacant, would be entitled to present thereto, or of the Governors of Queen Anne's Bounty (that is, the Governors of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy).

Landlord,
incumbent
of benefice.

In every such case the Governors of Queen Anne's Bounty may, if they think fit, on behalf of the incumbent, out of any money in their hands, pay to the tenant the amount of compensation due to him under this Act; and thereupon they may, instead of the incumbent, obtain from the county court a charge on the holding, in respect thereof, in favour of themselves.

Every such charge shall be effectual, notwithstanding any change of the incumbent.

40. The powers by this Act conferred on a landlord in respect of charging the land shall not be exercised by trustees for ecclesiastical or charitable purposes, except with the previous approval in writing of the Charity Commissioners for England and Wales.

Landlord,
charity
trustees, &c.

Resumption for Improvements, and Miscellaneous.

41. Where on a tenancy from year to year a notice to quit is given by the landlord with a view to the use of land for any of the following purposes:

Resumption
of possession
for cottages,
&c.

The creation of farm labourers' cottages or other houses, with or without gardens;

The providing of gardens for existing farm labourers' cottages or other houses;

The allotment for labourers of land for gardens or other purposes;

The planting of trees;

The opening or working of any coal, ironstone, limestone, or other mineral, or of a stone quarry, clay, sand, or gravel pit, or the construction of any works or buildings to be used in connection therewith;

The obtaining of brick earth, gravel, or sand;

The making of a watercourse or reservoir;

The making of any road, railway, tramroad, siding, canal, or basin, or any wharf, pier, or other work connected therewith;

and the notice to quit so states, then it shall, by virtue of this Act,

Sec. 41. be no objection to the notice that it relates to part only of the holding.

In every such case the provisions of this Act respecting compensation shall apply as on determination of a tenancy in respect of an entire holding.

The tenant shall also be entitled to a proportionate reduction of rent in respect of the land comprised in the notice to quit, and in respect of any depreciation of the value to him of the residue of the holding, caused by the withdrawal of that land from the holding or by the use to be made thereof, and the amount of that reduction shall be ascertained by agreement or settled by a reference under this Act, as in case of compensation (but without appeal).

The tenant shall further be entitled, at any time within twenty-eight days after service of the notice to quit, to serve on the landlord a notice in writing to the effect that he (the tenant) accepts the same as a notice to quit the entire holding, to take effect at the expiration of the then current year of tenancy; and the notice to quit shall have effect accordingly.

Provision as to limited owners.

42. Subject to the provisions of this Act in relation to Crown, duchy, ecclesiastical, and charity lands, a landlord, whatever may be his estate or interest in his holding, may give any consent, make any agreement, or do or have done to him any act in relation to improvements in respect of which compensation is payable under this Act which he might give or make or do or have done to him if he were in the case of an estate of inheritance owner thereof in fee, and in the case of a leasehold possessed of the whole estate in the leasehold.

Provision in case of reservation of rent.

43. When, by any Act of Parliament, deed, or other instrument, a lease of a holding is authorised to be made, provided that the best rent, or reservation in the nature of rent, is by such lease reserved, then, whenever any lease of a holding is, under such authority, made to the tenant of the same, it shall not be necessary, in estimating such rent or reservation, to take into account against the tenant the increase (if any) in the value of such holding arising from any improvements made or paid for by him on such holding.

PART II.

Distress.

Limitation of distress in respect of amount and time.

44. After the commencement of this Act it shall not be lawful for any landlord entitled to the rent of any holding to which this Act applies to distrain for rent, which became due in respect of such holding, more than one year before the making of such distress, except in the case of arrears of rent in respect of a holding to which this Act applies existing at the time of the passing of this Act, which arrears shall be recoverable by distress up to the first day of January one thousand eight hundred and eighty-five to the same extent as if this Act had not passed.

Provided that where it appears that according to the ordinary course of dealing between the landlord and tenant of a holding the payment of the rent of such holding has been allowed to be deferred until the expiration of a quarter of a year or half a year after the date at which such rent legally became due, then for the purpose of this section the rent of such holding shall be deemed to have become due at the expiration of such quarter or half year as aforesaid, as the case may be, and not at the date at which it legally became due.

45. Where live stock belonging to another person has been taken in by the tenant of a holding to which this Act applies to be fed* at a fair price agreed to be paid for such feeding by the owner of such stock to the tenant, such stock shall not be distrained by the landlord for rent where there is other sufficient distress to be found, and if so distrained by reason of other sufficient distress not being found, there shall not be recovered by such distress a sum exceeding the amount of the price so agreed to be paid for the feeding, or if any part of such price has been paid exceeding the amount remaining unpaid, and it shall be lawful for the owner of such stock, at any time before it is sold, to redeem such stock by paying to the distrainer a sum equal to such price as aforesaid, and any payment so made to the distrainer shall be in full discharge as against the tenant of any sum of the like amount which would be otherwise due from the owner of the stock to the tenant in respect of the price of feeding: Provided always, that so long as any portion of such live stock shall remain on the said holding the right to distrain such portion shall continue to the full extent of the price originally agreed to be paid for the feeding of the whole of such live stock, or if part of such price has been bonâ fide paid to the tenant under the agreement, then to the full extent of the price then remaining unpaid.

Limitation of distress in respect of things to be distrained.

Agricultural or other machinery which is the bonâ fide property of a person other than the tenant, and is on the premises of the tenant under a bonâ fide agreement with him for the hire or use thereof in the conduct of his business, and live stock of all kinds which is the bonâ fide property of a person other than the tenant, and is on the premises of the tenant solely for breeding purposes, shall not be distrained for rent in arrear.

46. Where any dispute arises—

- (a) in respect of any distress having been levied contrary to the provision of this Act; or
- (b) as to the ownership of any live stock distrained, or as to the price to be paid for the feeding of such stock; or
- (c) as to any other matter or thing relating to a distress on a holding to which this Act applies:

Remedy for wrongful distress under this Act.

such dispute may be heard and determined by the county court or by a court of summary jurisdiction, and any such county court or court of summary jurisdiction may make an order for restoration of any live stock or things unlawfully distrained, or may declare the price agreed to be paid in the case where the price of the feeding is required to be ascertained, or may make any other order which justice requires; any such dispute as mentioned in this section shall be deemed to be a matter in which a court of summary jurisdiction has authority by law to make an order on complaint in pursuance of the Summary Jurisdiction Acts; but any person aggrieved by any decision of such court of summary jurisdiction under this section may, on giving such security to the other party as the court may think just, appeal to a court of general or quarter sessions.

47. Where the compensation due under this Act, or under any custom or contract, to a tenant has been ascertained before the landlord distrains for rent due, the amount of such compensation

Set-off of compensation against rent.

* *Masters v. Green*, 20 Q. B. D. 807; 59 L. T. 476; 36 W. R. 591; 52 J. P. 597. *London and Yorkshire bank v. Belton*, 15 Q. B. D. 457; 54 L. J. Q. B. 568; 34 W. R. 31; 50 J. P. 86.

- Sec. 47.** may be set off against the rent due, and the landlord shall not be entitled to distrain for more than the balance.
- Exclusion of certiorari.** 48. An order of the county court or of a court of summary jurisdiction under this Act shall not be quashed for want of form, or be removed by certiorari or otherwise into any superior court.
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PART III.

General Provisions.

- Commencement of Act.** 53. This Act shall come into force on the first day of January one thousand eight hundred and eighty-four, which day is in this Act referred to as the commencement of this Act.
- Holdings to which Act applies.** 54. Nothing in this Act shall apply to a holding that is not either wholly agricultural or wholly pastoral, or in part agricultural, and as to the residue pastoral, or in whole or in part cultivated as a market garden, or to the holding let to the tenant during his continuance in any office, appointment, or employment held under the landlord.
- Avoidance of agreement inconsistent with Act.** 55. Any contract, agreement, or covenant made by a tenant, by virtue of which he is deprived of his right to claim compensation under this Act in respect of any improvement mentioned in the First Schedule hereto (except an agreement providing such compensation as is by this Act permitted to be substituted for compensation under this Act), shall, so far as it deprives him of such right, be void both at law and in equity.
- Right of tenant in respect of improvement purchased from outgoing tenant.** 56. Where an incoming tenant has, with the consent in writing of his landlord, paid to an outgoing tenant any compensation payable under or in pursuance of this Act in respect of the whole or part of any improvement, such incoming tenant shall be entitled on quitting the holding to claim compensation in respect of such improvement or part in like manner, if at all, as the outgoing tenant would have been entitled if he had remained tenant of the holding, and quitted the holding at the time at which the incoming tenant quits the same.
- Compensation under this Act to be exclusive.** 57. A tenant shall not be entitled to claim compensation by custom or otherwise than in manner authorised by this Act in respect of any improvement for which he is entitled to compensation under or in pursuance of this Act, but where he is not entitled to compensation under or in pursuance of this Act he may recover compensation under any other Act of Parliament, or any agreement or custom, in the same manner as if this Act had not passed.
- Provision as to change of tenancy.** 58. A tenant who has remained in his holding during a change or changes of tenancy shall not thereafter on quitting his holding at the determination of a tenancy be deprived of his right to claim compensation in respect of improvements by reason only that such improvements were made during a former tenancy or tenancies, and not during the tenancy at the determination of which he is quitting.
- Restriction in respect of improvements by tenant about to quit.** 59. Subject as in this section mentioned, a tenant shall not be entitled to compensation in respect of any improvements, other than manures as defined by this Act, begun by him, if he holds from year to year, within one year before he quits his holding, or at any time after he has given or received final notice to quit, and, if he holds as a lessee, within one year before the expiration of his lease.

* Sections 49, 50, 51, and 52 are repealed by 51 and 52 Vict., c. 21, s. 9.

A final notice to quit means a notice to quit which has not been waived or withdrawn, but has resulted in the tenant quitting his holding. Sec. 59.

The foregoing provisions of this section shall not apply in the case of any such improvement as aforesaid—

- (1) Where a tenant from year to year has begun such improvement during the last year of his tenancy, and, in pursuance of a notice to quit thereafter given by the landlord, has quitted his holding at the expiration of that year; and
- (2) Where a tenant, whether a tenant from year to year or a lessee, previously to beginning any such improvement, has served notice on his landlord of his intention to begin the same, and the landlord has either assented or has failed for a month after the receipt of the notice to object to the making of the improvement.

60. Except as in this Act expressed, nothing in this Act shall take away, abridge, or prejudicially affect any power, right, or remedy of a landlord, tenant, or other person vested in or exercisable by him by virtue of any other Act or law, or under any custom of the country, or otherwise, in respect of a contract of tenancy or other contract, or of any improvements, waste implements, tillages, away-going crops, fixtures, tax, rate, tithe rentcharge, rent, or other thing. General saving of rights.

61. In this Act—

“Contract of tenancy” means a letting of or agreement for the letting land for a term of years, or for lives, or for lives and years, or from year to year: Interpretation.

A tenancy from year to year under a contract of tenancy current at the commencement of the Act shall for the purposes of this Act be deemed to continue to be a tenancy under a contract of tenancy current at the commencement of this Act until the first day on which either the landlord or tenant of such tenancy could, the one by giving notice to the other immediately after the commencement of this Act, cause such tenancy to determine, and on and after such day as aforesaid shall be deemed to be a tenancy under a contract of tenancy beginning after the commencement of this Act:

“Determination of tenancy” means the cesser of a contract of tenancy by reason of effluxion of time, or from any other cause:

“Landlord” in relation to a holding means any person for the time being entitled to receive the rents and profits of any holding:

“Tenant” means the holder of land under a landlord for a term of years, or for lives, or for lives and years, or from year to year:

“Tenant” includes the executors, administrators, assigns, legatee, devisee, or next-of-kin, husband, guardian, committee of the estate or trustees in bankruptcy of a tenant, or any person deriving title from a tenant; and the right to receive compensation in respect of any improvement made by a tenant shall enure to the benefit of such executors, administrators, assigns, and other persons as aforesaid:

“Holding” means any parcel of land held by a tenant:

“County court,” in relation to a holding, means the county court within the district whereof the holding or the larger part thereof is situate:

Sec. 61. "Person" includes a body of persons and a corporation aggregate or sole:

"Live stock" includes any animal capable of being distrained.

"Manures" means any of the improvements numbered twenty-two and twenty-three in the third part of the First Schedule hereto:

The designations of landlord and tenant shall continue to apply to the parties until the conclusion of any proceedings taken under or in pursuance of this Act in respect of compensation for improvements, or under any agreement made in pursuance of this Act.

Repeal of
Acts of 1875
and 1876.

62. On and after the commencement of this Act, the Agricultural Holdings (England) Act, 1875, and the Agricultural Holdings (England) Act, 1875, Amendment Act, 1876, shall be repealed.

Provided that such repeal shall not affect—

(a) anything duly done or suffered, or any proceedings pending under or in pursuance of any enactment hereby repealed; or

(b) any right to compensation in respect of improvements to which the Agricultural Holdings (England) Act, 1875, applies, and which were executed before the commencement of this Act; or

(c) any right to compensation in respect of any improvement to which the Agricultural Holdings (England) Act, 1875, applies, although executed by a tenant after the commencement of this Act if made under a contract of tenancy current at the commencement of this Act; or

(d) any right in respect of fixtures affixed to a holding before the commencement of this Act;

and any right reserved by this section may be enforced after the commencement of this Act in the same manner in all respects as if no such repeal had taken place.

Short title
of Act.

63. This Act may be cited for all purposes as the Agricultural Holdings (England) Act, 1883.

Limits of
Act.

64. This Act shall not apply to Scotland or Ireland.

FIRST SCHEDULE.

PART I.

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS REQUIRED.

- (1) Erection or enlargement of buildings.
- (2) Formation of silos.
- (3) Laying down of permanent pasture.
- (4) Making and planting of osier beds.
- (5) Making of water meadows or works of irrigation.
- (6) Making of gardens.
- (7) Making or improving of roads or bridges.
- (8) Making or improving of watercourses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes.
- (9) Making of fences.
- (10) Planting of hops.
- (11) Planting of orchards or fruit bushes.
- (12) Reclaiming of waste land.
- (13) Warping of land.
- (14) Embankment and sluices against floods.

PART II.

IMPROVEMENT IN RESPECT OF WHICH NOTICE TO LANDLORD
IS REQUIRED.

(15) Drainage.

PART III.

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS NOT
REQUIRED.

- (16) Boning of land with undissolved bones.
- (17) Chalking of land.
- (18) Clay-burning.
- (19) Claying of land.
- (20) Liming of land.
- (21) Marling of land.
- (22) Application to land of purchased artificial or other purchased manure.
- (23) Consumption on the holding by cattle, sheep, or pigs of cake or other feeding stuff not produced on the holding.

SECOND SCHEDULE.

Levying distress. Three per centum on any sum exceeding £20 Section 49.
and not exceeding £50. Two and a half per centum on any sum
exceeding £50.

To bailiff for levy, £1 1s.

To man in possession, if boarded, 3s. 6d. per day; if not boarded,
5s. per day.

For advertisements the sum actually paid.

To auctioneer. For sale five pounds per centum on the sum
realised not exceeding £100, and four per centum on any addi-
tional sum realised not exceeding £100, and on any sum exceeding
£200 three per centum. A fraction of £1 to be in all cases
considered £1.

Reasonable costs and charges where distress is withdrawn or
where no sale takes place, and for negotiations between landlord
and tenant respecting the distress; such costs and charges in case
the parties differ to be taxed by the registrar of the county court
of the district in which the distress is made.

ALLOTMENTS ACT, 1887.

50 & 51 VICT., CHAP. 48.

An Act to Facilitate the Provision of Allotments for the Labouring
Classes. [16th September, 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and
with the advice and consent of the Lords Spiritual and Temporal,
and Commons, in this present Parliament assembled, and by the
authority of the same, as follows:

1. This Act may be cited as the Allotments Act, 1887.

Short title.

Duty of
sanitary
authority to
acquire land
for allot-
ments.

2. (1) On a representation in writing to the sanitary authority of any urban or rural district by any six registered parliamentary electors or ratepayers resident, in the case of an urban district, in that district, and, in the case of a rural district, in some parish in that district, that the circumstances of the urban district or parish are such that it is the duty of the sanitary authority to take proceedings under this Act therein, the sanitary authority shall take such representation into consideration.

If the sanitary authority of any urban or rural district are of opinion, either after inquiry made in consequence of such representation or otherwise, that there is a demand for allotments for the labouring population in such urban district, or in any parish in such rural district, and that such allotments cannot be obtained at a reasonable rent and on reasonable conditions by voluntary arrangement between the owners of land suitable for such allotments and the applicants for the same, the sanitary authority, subject to the provisions of this Act, shall by purchase or hire acquire any suitable land which may be available, whether within or without their district or the said parish, adequate to provide a sufficient number of allotments, and shall let such land in allotments to persons belonging to the labouring population resident in the said district or parish and desiring to take the same.

(2) A sanitary authority shall not under this Act acquire land for allotments save at such price or rent that in the opinion of the sanitary authority all expenses, except such expenses as are incurred in making roads to be used by the public, incurred by the sanitary authority in acquiring the land and otherwise in relation to the allotments may reasonably be expected to be recouped out of the rents obtained in respect thereof.

For the purpose of this section, the expression "reasonable rent" means the rent, exclusive of rates, taxes, and tithe rentcharge which a person taking an allotment might reasonably be expected to pay, taking one year with another, to a landlord, having regard to the value of similar land in the neighbourhood, to the extent and situation of the allotment, to the expenses of adapting the land to the purposes of the allotment, and to the repairs and other outgoings payable by the landlord, and to the cost and risk of collecting the rents of, and otherwise managing allotments.

Acquisition
of land for
purpose of
Act.
38 & 39 Vict.,
c. 55.
8 & 9 Vict.,
c. 18.

3. (1) For the purposes of the purchase of land by agreement by a sanitary authority for allotments, Section one hundred and seventy-eight of the Public Health Act, 1875, and the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, shall be incorporated with this Act, except the provisions with respect to the purchase and taking of land otherwise than by agreement, and with respect to the provision to be made for affording access to the special Act.

(2) If a sanitary authority are unable by hiring or purchase by agreement to acquire suitable land sufficient for allotments under this Act for any district or parish at a reasonable price or rent and subject to reasonable conditions, such authority may petition the county authority of the county in which the district or parish is situate, and the county authority (after such inquiry and procedure as provided in the sections herein-after incorporated in this Act) may make a provisional order authorising the sanitary authority to put in force, as respects the land mentioned in the order, the provisions of the Lands Clauses Consolidation Act, 1845,

and the Acts amending the same with respect to the purchase and taking of land otherwise than by agreement. Sec. 3.

(3) The Local Government Board, on the application of any county authority, shall introduce into Parliament a Bill confirming provisional orders made under this Act by such county authority, and the sanitary authority petitioning for the order shall be considered as the promoters of such order.

(4) For the purpose of the purchase of land under this section otherwise than by agreement, Sections one hundred and seventy-six, two hundred and ninety-six, and two hundred and ninety-seven of the Public Health Act, 1875, shall, so far as consistent with the tenour of this Act, be incorporated with this Act, and apply as if they were herein re-enacted, with the substitution of "the county authority" for "the Local Government Board," and of "any officer of the county authority appointed for the purpose of an inquiry" for "inspectors of the Local Government Board."

Provided that—

(a) Any question of disputed compensation shall be referred to the arbitration of a single arbitrator appointed by the parties, or if the parties do not concur in the appointment of a single arbitrator, then, on the application of either of them, by the Local Government Board, and the remuneration to be paid to the arbitrator appointed by the Local Government Board shall be fixed by that Board:

(b) If an arbitrator appointed for the purpose of this Act dies or becomes incapable to act before he has made his award, or fails to make his award within two months after he is appointed, his appointment shall determine, and the determination of the compensation shall be referred to another arbitrator appointed in like manner as if no arbitrator had been previously appointed: Provided always, that the same arbitrator may be re-appointed:

(c) An arbitrator appointed under this section shall be deemed to be an arbitrator within the meaning of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, and the provisions of those Acts with respect to an arbitration shall apply accordingly; and, further, the arbitrator, notwithstanding anything in the said Acts, shall determine the amount of the costs and shall have powers to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

(5) In construing for the purposes of this section any section or Acts incorporated with this section, this Act, together with any Act confirming a provisional order under this section, shall be deemed to be the special Act, and the sanitary authority shall be deemed to be the local authority or the promoters of the undertaking, as the case requires, and the word "land" shall have the same meaning as in this Act.

(6) Where land is purchased by a sanitary authority under this Act otherwise than by agreement, the following provisions shall apply:

(a) The county authority shall not make a provisional order for purchasing any park, garden, pleasure-ground, or other land required for the amenity or convenience of any dwelling-house, or any land the property of a railway or canal com-

Sec. 3.

pany which is or may be required for the purposes of their undertaking :

- (b) The county authority shall, in making a provisional order for purchasing land, have regard to the extent of land held in the neighbourhood by any owner and to the convenience of other property belonging to the same owner, and shall so far as is practicable avoid taking an undue or inconvenient quantity of land from any one owner.

(7) For the purpose of the hiring of land by a sanitary authority for allotments, any person or body of persons or body corporate authorised to sell land to the sanitary authority for the purposes of this Act may, without prejudice to any other power of leasing, lease land to the sanitary authority, without any fine or premium, for a term not exceeding thirty-five years.

(8) The county authority shall not make a provisional order for purchasing any right to coal or metalliferous ore.

Costs to be
awarded in
certain cases.

4. Where any Bill for confirming a provisional order made under this Act is referred to a committee of either House of Parliament upon the petition of any person opposing such Bill, the committee shall take into consideration the circumstances under which such opposition is made to the Bill, and whether such opposition was or was not justified by the circumstances, and shall award costs accordingly to be paid by the promoters or the opponents of the Bill, as the committee may think just.

28 & 29 Vict.,
c. 27.

Any costs under this section may be taxed and recovered in the manner in which costs may be taxed and recovered under the twenty-eighth and twenty-ninth Victoria, chapter twenty-seven.

The decision of the majority of the members of the committee for the time being present and voting on any question under this section shall be deemed to be the decision of the committee.

Improve-
ment and
adaptation of
land for
allotments.

5. The sanitary authority may improve any land acquired by them under this Act, and adapt the same for letting in allotments, by draining, fencing, and dividing the same, acquiring approaches, making roads, and otherwise, as they think fit, and may from time to time do such things as may be necessary for maintaining such drains, fences, approaches, and roads, or otherwise for maintaining the allotments in a proper condition.

Manage-
ment of
allotments.

6. (1) Subject to the provisions of this Act, the sanitary authority may from time to time make, revoke, and vary such regulations as appear to be necessary or proper for regulating the letting of allotments under this Act, and for preventing any undue preference in the letting thereof, and generally for carrying the provisions of this Act into effect; and such regulations may define the persons eligible to be tenants of such allotments, and the notices to be given for the letting thereof, and the size of the allotments, and the conditions under which they are to be cultivated, and the rent to be paid for them. Provided that all such regulations shall make provision for reasonable notice to be given to a tenant of any allotment of the determination of his tenancy. Provided also, that all regulations made under this Section shall not be of any force unless and until they have been confirmed by the Local Government Board, in like manner and subject to the like provisions as in the case of byelaws under the Public Health Act, 1875.

38 & 39 Vict.,
55.

(2) All regulations for the time being in force under this Section shall be binding on all persons whatsoever; and the sanitary authority shall cause them to be from time to time made known,

in such manner as the sanitary authority think fit, to all persons interested, and shall cause a copy thereof to be given gratis to any inhabitant of the district or parish demanding the same.

Sec. 6.

(3) Subject to the provisions of this Act the sanitary authority may from time to time appoint, and when appointed, remove allotment managers of land acquired under this Act for allotments, and such allotment managers shall consist either partly of members of such authority and partly of other persons, or wholly of other persons, so that in either case such other persons be persons residing in the locality and contributing to the rate out of which the expenses under this Act are paid.

(4) The proceedings and powers of allotment managers shall be such as, subject to the provisions of this Act, may be prescribed from time to time by the sanitary authority; the allotment managers may be empowered by the sanitary authority to do anything in relation to the management of such allotments which the sanitary authority are authorised to do, and to incur expenses to such amount as the sanitary authority prescribe, and any expenses properly so incurred shall be deemed to be expenses of the sanitary authority under this Act.

7. (1) The rents of the allotments shall be fixed at an amount not less than such as may reasonably be expected to ensure the sanitary authority from loss; but in calculating such loss any expenses incurred in an unsuccessful attempt to acquire land for allotments shall be excluded and, subject as aforesaid, such rents may be from time to time charged as are reasonable, having regard to the agricultural value of the land, and not more than a quarter's rent shall be required to be paid in advance in any case where it is deemed necessary by the sanitary authority to require the payment of rent in advance.

Provisions
as to letting
and use of
allotments.

(2) The sanitary authority shall, for the purposes of all rates, taxes, and tithe rentcharge, be deemed to be the occupiers of the allotments which are let, but they shall cause the sums from time to time paid by way of rates, taxes, and tithe rentcharge in respect of the allotments to be apportioned among them, and cause the sum so apportioned in respect of each allotment to be certified to the tenant thereof, and such sum shall be added to the rent otherwise payable by the said tenant in respect of such allotment, and shall be deemed to be part of such rent, and be recoverable accordingly: Provided always, that for the purposes of the parliamentary franchise, and the municipal and all other local franchises, the tenants shall be deemed to be the occupiers, and such rates to have been paid by them, notwithstanding the provisions hereinbefore contained.

(3) One person shall not hold any allotment or allotments acquired under this Act exceeding one acre, and an allotment shall not be sub-let.

(4) Provided that if at any time any allotment cannot be let in accordance with the provisions of this Act and the regulations, the same may be let to any person whatever at the best annual rent which can be obtained for the same, without any premium or fine, and on such terms as may enable the sanitary authority to resume possession thereof within a period not exceeding twelve months if it should at any time be required to be let under the provisions aforesaid.

(5) No building other than a tool-house, shed, greenhouse, fowl-house, or pigsty shall be erected on any part of any allotment,

Sec. 7. and if any building other than as aforesaid is so erected the sanitary authority shall forthwith pull down such building and sell and dispose of the materials thereof, and the proceeds of the sale shall be applicable in like manner as the rent of the allotment. If any building so allowed to be erected is erected upon an allotment, then at the end of the tenancy neither the sanitary authority nor the incoming tenant shall be bound to take any such building or pay any compensation therefor, but the outgoing tenant shall be at liberty, before the expiration of his tenancy, to remove the same, and, if he fails so to do, the sanitary authority may pull down the building and dispose of the materials, and apply the proceeds in like manner as if it were a building prohibited to be erected.

(6) A tenant of an allotment may, before the expiration of his tenancy, remove any fruit and other trees and bushes planted or acquired by him, for which he has no claim for compensation.

Recovery of
rent and
possession of
allotments.

8. (1) The rent for an allotment let in pursuance of this Act, and the possession of such allotment in the case of any notice to quit, or failure to deliver up possession of the same as required by law, may be recovered by the sanitary authority as landlords, in the like manner as in any other case of landlord and tenant.

(2) If the rent for any allotment is in arrear for not less than forty days, or if it appears to the sanitary authority that the tenant of an allotment not less than three months after the commencement of the tenancy thereof has not duly observed the regulations affecting such allotment made by or in pursuance of this Act, or is resident more than one mile out of the district or parish for which the allotments are provided, the sanitary authority may serve upon the tenant, or if he is residing out of the district or parish, leave at his last known place of abode in the district or parish, or fix in some conspicuous manner on the allotment, a written notice determining the tenancy at the expiration of one month after the notice has been so served or affixed, and thereupon such tenancy shall be determined accordingly: Provided that in every such case the sanitary authority in default of agreement between the incoming and outgoing tenant shall on demand pay to the tenant whose tenancy is so determined any compensation due to him as an outgoing tenant; and such compensation shall be assessed by an arbitrator appointed by the sanitary authority, or, if the tenant so elect, either by an arbitrator appointed under the Allotments and Cottage Gardens Compensation for Crops Act, 1887, or by a reference under the Agricultural Holdings (England) Act, 1883.

50 & 51 Vict.,
c. 26.
46 & 47 Vict.,
c. 61.

(3) Upon the recovery of an allotment from any tenant, the court or justice directing the recovery may stay delivery of possession until payment of the compensation, if any, due to the outgoing tenant has been made or secured to the satisfaction of the court or justice.

Election of
allotment
managers.

9. (1) Where allotments have been provided under this Act for a parish in any rural district, a petition to the sanitary authority may be presented by a number of the electors of allotment managers in such parish, not being less than one sixth of the whole number of such electors, praying for the election of allotment managers in such parish, and thereupon the sanitary authority shall order such election, and the allotment managers so elected shall be the allotment managers of the allotments in such parish in lieu of allotment managers appointed by the sanitary authority, who, on an election under this Act, shall cease to hold office.

(2) The first election shall be held on such day as may, subject to the regulations hereafter mentioned, be fixed by the said authority. Sec. 9.

(3) The number of allotment managers in each case shall be such (not being less than three nor more than five) as the sanitary authority may fix, and the quorum shall be three, or, if the number of managers is less than five, be two.

(4) The allotment managers shall retire triennially on such day as may be prescribed by the regulations hereinafter mentioned, and the allotment managers first elected shall retire on the day for retirement which occurs next after the expiration of three years after the day fixed for their election.

(5) Any casual vacancy among the allotment managers which occurs by death, resignation, disqualification, or otherwise may, if there remains a quorum of allotment managers, be filled up by such managers, but the person elected to fill the vacancy shall hold office only for the same time as the vacating manager would have done.

(6) If at any time by reason of a failure of election, either by electors or allotment managers, or of any other cause, there is no allotment manager, or no quorum of allotment managers in any parish, the sanitary authority shall appoint allotment managers under this Act in that parish, and shall continue to appoint the same until another petition for the election of allotment managers is presented under this section.

(7) The electors of allotment managers shall be the parliamentary electors in the parish, that is to say, the persons registered in any list of parliamentary electors for the parish as entitled to vote at an election of a member to serve in Parliament, and an elector shall not give more than one vote for any candidate nor vote for more candidates than the number to be elected.

(8) The election of allotment managers shall be held at such time, and in such manner, and in accordance with such regulations as the Local Government Board may from time to time by order prescribe; and the Local Government Board may make regulations respecting the duties of the returning officer, and the expenses of the election, and may do and make regulations respecting all such things as appear to them necessary or proper for carrying into effect this section, whether preliminary or incidental to such election, and for applying to such election any enactments respecting offences at the election of guardians, and may revoke or alter any previous order under this section: Provided as follows:—

- (a) Such guardian or overseer of the parish, or other person as the sanitary authority may appoint, shall be the returning officer;
- (b) A poll, if demanded, shall be taken by ballot, and the said regulations shall provide for the application to such poll of the Ballot Act, 1872, including the provisions for punishing offences; 35 & 36 Vict., c. 33.
- (c) The poll shall be held on one day only, and shall close at eight o'clock in the evening, and shall be open for at least the period from five to eight o'clock in the evening;
- (d) The returning officer shall not vote except in the case of an equality of votes between any candidates, in which case he shall have a casting vote;
- (e) Any ballot boxes, instruments, fittings, and compartments provided by any public authority for parliamentary, municipal,

Sec. 9.

or school board elections, or belonging to any public authority for the purpose of elections, shall be lent to the returning officer on his request for the purpose of an election of allotment managers, under such conditions and either free of charge or for such reasonable charge as may be prescribed by regulations under this section;

- (f) The returning officer may, except during ordinary school hours, use free of charge for the purpose of an election under this section any room in a school receiving a grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any rate in the parish, but he shall make good any damage done to the room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the room, on account of its being so used.

(9) An election under this section shall not be questioned except in such manner as may be prescribed by regulations under this section, and the regulations may apply to such election any enactments respecting the questioning of an election of guardians.

(10) If an allotment manager is punished with imprisonment for any crime, or is adjudged a bankrupt, or enters into a composition or arrangement with his creditors, or ceases to reside in, or in the neighbourhood of, the parish, or absents himself for twelve months from all meetings of the allotment managers, except for temporary illness or other cause, to be approved by such managers, or is a tenant of any allotment under the management of the managers, he shall cease to be an allotment manager, and his office shall be vacant, and a person who, if elected, would by virtue of this enactment cease, otherwise than by reason of absence from meetings, to be a manager, shall not be qualified to be elected a manager, but, save as aforesaid, any retiring manager shall be eligible for re-election.

Expenses
and receipts.

10. (1) All expenses incurred by a sanitary authority under this Act, including allowances to officers of such authority for duties under this Act, shall be defrayed—

38 & 39 Vict.,
c. 55.

(a) in the case of an urban sanitary authority as part of the general expenses of their execution of the Public Health Act, 1875; and

(b) in the case of a rural sanitary authority as special expenses incurred in the execution of the Public Health Act, 1875, and such expenses shall be charged to the parish on account of which the land was acquired.

(2) Section two hundred and ninety-eight of the Public Health Act, 1875, with respect to costs of provisional orders, shall apply to costs incurred by a sanitary authority in relation to provisional orders under this Act.

(3) All sums received by a sanitary authority in respect of any land acquired under this Act, otherwise than from any sale or exchange, shall be applied in aid of the expenses incurred by them in respect of such land, and so far as they are not required for the payment of those expenses, shall be applied in aid of the general and special expenses above in this section mentioned, and in the case of a rural sanitary authority shall be credited to the parish on account of which the land was acquired.

(4) The sanitary authority may borrow for the purposes of acquiring, improving, and adapting land under this Act in like manner and subject to the like conditions as for the purpose of

defraying the above-mentioned general and special expenses; and all sums payable by the sanitary authority in respect of principal or of interest on any money so borrowed shall be defrayed in manner provided by this section respecting expenses incurred under this Act in respect of such land. Sec. 10.

(5) Sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine both inclusive, of the Public Health Act, 1875, relating to borrowing by a local authority, and Sections two hundred and forty-two and two hundred and forty-three of the same Act, relating to loans by the Public Works Loan Commissioners to a local authority, shall apply to a loan for the purposes of this Act to a sanitary authority in like manner as if they were herein re-enacted and in terms made applicable thereto. 38 & 39 Vict.,
c. 55.

(6) Separate accounts shall be kept of the receipts and expenditure under this Act of the sanitary authority and their officers and of allotment managers and other persons acting under this Act, and such accounts shall be audited in like manner, and with the like incidents and consequences as the accounts of the other receipts and expenditure of the sanitary authority and their officers under the Public Health Act, 1875, and in the case of allotment managers and other persons as the accounts of officers of the sanitary authority.

11. (1) Where the sanitary authority are of opinion that any land acquired by them in pursuance of this Act or any part thereof is no longer needed for the purpose of allotments, or that any other land more suitable for such purpose is available, they may, with the sanction of the county authority, sell or let such land or part, or exchange the same for other land more suitable for the said purpose, and may pay or receive money for equality of exchange. Sale of
superfluous
or unsuitable
land.

(2) The proceeds of a sale under this section and any money received by the sanitary authority on any such exchange as aforesaid by way of equality of exchange, shall be applied in discharging, either by way of a sinking fund or otherwise, the debts and liabilities of the sanitary authority in respect of the land acquired under this Act, or in acquiring, adapting, and improving other land for allotments under this Act, and any surplus remaining may be applied for any purpose for which capital money may be applied, and which is approved by the Local Government Board; and the interest thereon (if any) and any money received from the letting of the land may be applied in acquiring other land for allotments, or shall be applied in like manner as receipts from allotments under this Act are applicable: Provided that any such proceeds, surplus, interest, and money shall, in the case of a rural sanitary district, be credited to or applied for the benefit of the parish for which the land was purchased.

(3) Sections one hundred and twenty-eight to one hundred and thirty-two (both inclusive) of the Lands Clauses Consolidation Act, 1845 (relating to the right of pre-emption of superfluous lands) shall apply upon any sale by a sanitary authority in pursuance of this section of any land, whether because it is no longer needed for the purpose of allotments, or because other land more suitable for the purpose is available, but save as aforesaid, the provisions of the Lands Clauses Consolidation Act, 1845, with respect to the sale of superfluous lands shall not be deemed to be incorporated in this Act, or in any provisional order made under this Act.

Power to make scheme for provision of common pasture.

12. Where it appears to any sanitary authority that, as regards their district, if urban, or any parish in their district, if rural, land can be acquired for affording common pasture at such price or rent that all expenses incurred by the sanitary authority in acquiring the land and otherwise in relation to the land when acquired may reasonably be expected to be recouped out of the charges paid in respect thereof, and that the acquisition of such land is desirable in view of the wants and circumstances of the labouring population, such sanitary authority may submit to the county authority for the county in which the district or parish is wholly or partly situate a scheme for providing such common pasture, and the county authority, if satisfied of the expediency of such scheme, may by order authorise the sanitary authority to carry it into effect, and upon such order being made this Act shall, with the necessary modifications, apply in like manner as if "allotments" in this Act included common pasture, and "rent" included a charge for turning out an animal.

Provided that the regulations made under this Act may extend to regulating the turning out of animals on the common pasture, to defining the persons entitled to turn them out, the number to be turned out, and the conditions under which animals may be turned out, and fixing the charges to be made for each animal, and otherwise to regulating the common pasture.

Power for allotment wardens or allotment trustees to transfer to sanitary authority.
8 & 9 Vict., c. 119.

13. (1) The allotment wardens under the Inclosure Act, 1845, and the Acts amending the same, having the management of any land appropriated under the said Acts either before or after the passing of this Act for allotments or field gardens for the labouring poor of any place, may by agreement with any sanitary authority within whose district such place is wholly or partly situate, transfer the management of such land to the sanitary authority, upon such terms and conditions as may be agreed upon with the sanction, as regards the said allotment wardens, of the Land Commissioners for England, and thereupon such land shall vest in the sanitary authority.

45 & 46 Vict., c. 80.

(2) All trustees within the meaning of the Allotments Extension Act, 1882, required or authorised by that or any other Act to let lands in allotments to cottagers, labourers, journeymen, or others in any place may, if they think fit, in lieu of letting such land in manner provided by the said Acts, sell or let such land to the sanitary authority of the district in which such place is wholly or partly situate, upon such terms as may be agreed upon, with the sanction, as regards the said trustees, of the Charity Commissioners for England and Wales.

(3) The provisions of this Act shall apply to land vested in the sanitary authority under this section, in like manner as if it had been acquired by the sanitary authority under the general powers of this Act.

As to combination of parishes and contributory places.

14. (1) If expenses under this Act are incurred in respect of two or more parishes, such expenses shall be apportioned among those parishes in like manner and subject to the like provisions as special expenses incurred for the common benefit of two or more contributory places under the Public Health Act, 1875, may be apportioned.

(2) Where in a rural district any area other than a parish is a contributory place for the purposes of the Public Health Act, 1875, this Act shall apply to such contributory place as if it were a parish, and the expression "parish" in this Act shall not include

any parish wholly or partly within such contributory place, and the parliamentary electors for the contributory place shall be the persons registered in any list of parliamentary electors for any parish wholly in such contributory place, or for any parish partly therein, if registered in respect of any qualification situate in such contributory place. Sec. 14.

(3) Where a district or parish forms part of more than one county, it shall be deemed for the purposes of this Act to be situate wholly in that county which comprised, according to the last published census for the time being, the largest portion of the population of such district or parish, and where such population is not specified in such census, then in the county in which the largest part of the area of such district or parish is situate, and any doubt which may arise under this section as to the county shall be determined by the Local Government Board.

Two or more parishes immediately adjoining each other may make a representation under this Act, and a sanitary authority of a rural district may take proceedings in respect of such parishes as if they were a single parish.

15. The sanitary authority shall cause a register to be kept showing the particulars of the tenancy, acreage, and rent of every allotment let, and of the unlet allotments, and such register shall be open to the examination of ratepayers in the urban district or the parish for which the allotments have been provided, in such manner as may be prescribed by the regulations made under this Act by the sanitary authority, and any ratepayer of such district or parish, without paying any fee, may take copies of or extracts from such register, and within one month after the twenty-fifth day of March in every year shall cause an annual statement showing their receipts and expenditure under this Act in respect of the year ending on that day, and their liabilities outstanding on that day, to be deposited at some convenient place in the district, if urban, or the parish to which the statement relates if the district is rural, and any ratepayer may without fee inspect and take copies of such statement. Register of tenancies.

16. For the purposes of this Act "county authority" shall be any representative body elected by the inhabitants of the county which may be established under any Act of any future session of Parliament,* and until such representative body is established the powers and duties of the county authority under this Act shall be exercised and performed by the Local Government Board, and the provisions of this Act and of the enactments incorporated with this Act shall accordingly be construed with the necessary modification. Definition of county authority.

17. In this Act, unless the context otherwise requires—

The expression "allotment" includes a field garden. Definitions.

The expressions "urban district" and "rural district" mean respectively an urban and rural sanitary district within the meaning of the Public Health Act, 1875.

The expression "sanitary authority" means the urban sanitary authority of an urban sanitary district and the rural sanitary authority of a rural sanitary district within the meaning of the Public Health Act, 1875.

The expression "land" includes pasture, arable, and other land, and any right of way or easement.

18. This Act shall not apply to Scotland or Ireland. Extent of Act.

* As to county boroughs see Section 34 (7) Local Government Act, 1888.

ALLOTMENTS ACT, 1890.

53 & 54 VICT., C. 65.

A.D. 1890. An Act to provide for an Appeal from a Sanitary Authority failing to carry into effect the Allotments Act, 1887.

[18th August, 1890.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Construction
and short
title.
50 & 51 Vict.,
c. 48.

1. This Act shall be construed as one with the Allotments Act, 1887 (in this Act referred to as the principal Act), and the principal Act and this Act may be cited together as the Allotments Acts, 1887 and 1890, and this Act may be cited as the Allotments Act, 1890.

Appeal to
county
council by
persons
entitled to
make
representa-
tion to
sanitary
authority.
45 & 46 Vict.,
c. 50.

2. (1) Where such representation as is authorised by Section two of the principal Act has been made to the sanitary authority with respect to any district or parish, not being within the limits of a borough as defined by the Municipal Corporations Act, 1882, and any six persons qualified to make such representation* consider that the circumstances of the district or parish are such as to make it the duty of the sanitary authority to take proceedings under that Act therein, and that the sanitary authority have failed to acquire land adequate and suitable in quality and position to provide a sufficient number of allotments, such persons may petition the county council of the county in which such district or parish is situate, stating the facts and requesting the council to put into force the principal Act for the purpose of providing a sufficient number of allotments for the district or parish.

(2) The council, if satisfied by the inquiry hereinafter mentioned that the circumstances are such that land for allotments should be acquired, shall pass a resolution to that effect, and thereupon the powers and duties of the sanitary authority under the principal Act, so far as regards that district or parish, shall be transferred from the sanitary authority to the county council, and the county council, in substitution for the sanitary authority, shall proceed to acquire land in accordance with the principal Act, and otherwise execute that Act in the said district or parish.

Standing
committee.

Provided that this section shall not affect the property in, or any powers or duties of the sanitary authority in relation to, any land which before the passing of the said resolution was acquired by the sanitary authority under the principal Act.

51 & 52 Vict.,
c. 41.

3. (1) For the purposes of this Act or the principal Act every county council, as soon as is conveniently practicable after the passing of this Act, and annually thereafter at the meeting for the election of chairman, shall appoint under the Local Government Act, 1888, a standing committee not exceeding one-fourth of their whole body.

(2) For the purposes of any business under this Act relating to any district or parish wholly or partly situate in an electoral division, the county councillor representing that division shall, if not already appointed, be an additional member of the committee.

(3) Any petition under this Act shall as of course, and without

* See Section 9 (17) Local Government Act, 1894 (p. 86).

any order of the council, be referred to the standing committee, who, on being satisfied of the bonâ fides of the application, shall forthwith cause a local inquiry into the circumstances to be made, and shall report the result to the council.

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(4) An inquiry under this Act or the principal Act shall be held by such one or more members of the standing committee, or such officer of the county council or other person as the standing committee may appoint to hold the same.

4. Where the powers of the sanitary authority under the principal Act are, by virtue of this Act, transferred to the county council, the following provisions shall have effect:—

Supplemental provisions on council acquiring powers of sanitary authority.

(a) The principal Act shall apply with the modifications necessary for giving effect to this Act:

(b) The county council may borrow for the purposes of this Act subject to the conditions, in the manner, and on the security of the rate, subject to, in, and on the security of which the sanitary authority might have borrowed under the principal Act, if this Act had not been passed. The council shall have power to charge the said rate with the repayment of the principal and interest of the loan; and such loan with the interest thereon shall be paid by the sanitary authority in like manner, and such charge shall have the like effect, as if the loan were lawfully raised and charged on that rate by the sanitary authority.

(c) The county council shall keep separate accounts of all receipts and expenditure under this Act, and, in the application of sub-section six of Section ten of the principal Act, the Local Government Act, 1888, shall be substituted for the Public Health Act, 1875:

51 & 52 Vict., c. 41.
38 & 39 Vict., c. 55.

(d) The county council may make a provisional order for the purchase of land on the recommendation of the standing committee, without any petition from the sanitary authority, and the council shall be considered as the promoters of the order:

(e) The county council may delegate to the sanitary authority any powers under Section six, Section seven, or Section eight of the principal Act (which sections relate to the management of the allotments, and the letting and use thereof, and the recovery of the rent and of possession thereof); and, subject to the terms of the delegation, all expenses and receipts arising in the exercise of the powers so delegated shall be paid and dealt with as expenses and receipts of the sanitary authority under the principal Act:

(f) The county council, on the request of the sanitary authority, may, by order under their seal, transfer to that authority all or any of the powers, duties, property, and liabilities vested in and imposed on the council by virtue of this Act as regards the district of such authority or any part thereof, and the property so transferred shall be deemed to have been acquired by that authority under the principal Act, and that authority shall act accordingly.

5. Any room in a school receiving a grant out of moneys provided by Parliament may, except during ordinary school hours, be used free of charge for the purpose of an inquiry under this Act, or for the purposes of this Act by the county council or any committee appointed under this Act, or, with the consent of any two managers, for the purpose of holding public meetings to discuss any question relating to allotments under this Act or the

Use of schoolroom free of charge.

Sec. 5. principal Act, but any damage done to the room and any expense incurred by the person or persons having control over the room on account of its being so used shall be paid by the county council or by the persons calling the meeting.

Nothing in this section shall give any right to hold a public meeting in a schoolroom (a) unless not less than six days before the meeting a notice of the intention to hold the meeting on the day and at the time specified in the notice, signed by the persons calling the meeting, being not less than six in number, and being persons qualified to make a representation to the local authority under the principal Act, has been given, if the school is under a school board, to the clerk of the board, and in any other case to one of the managers of the school; nor (b) if the use of the schoolroom on the said day and at the said time has previously to the receipt of the notice of the meeting been granted for some other purpose; but in that case the clerk or manager, or some one on his behalf, shall forthwith after the receipt of the notice, inform in writing one of the persons signing it that the use of the school has been so granted for some other purpose, and name some other day on which the schoolroom can be used for the meeting.

If the persons calling the meeting fail to obtain the use of a schoolroom under this section, they may appeal to the standing committee under this Act, and the committee shall forthwith decide the appeal and make such order respecting the use of the room as seems just.

Expenses.

6. (1) All expenses incurred by the county council in executing the principal Act or this Act in any district or parish on default of a sanitary authority, or incurred by the council in or incidentally to a local inquiry under this Act, shall be paid in the first instance out of the county fund as for general county purposes, and, unless defrayed out of moneys received by the council in respect of any land acquired under this Act otherwise than by sale or exchange, or out of money borrowed as before in this Act mentioned, shall when the powers and duties of the sanitary authority under the principal Act are transferred to the county council in pursuance of this Act, be repaid to the county council as a debt by the sanitary authority.

(2) All sums payable by a sanitary authority in pursuance of this Act shall be defrayed in like manner as expenses under the principal Act are required to be defrayed, save that in the case of a rural authority they shall, with the exception of the principal and interest of any money borrowed, or the rent of any land hired by the county council be charged as general expenses.

(3) All sums received by a county council in respect of any land acquired under this Act otherwise than from any sale or exchange, in so far as they are not required for the payment of expenses incurred by them in respect of such land, shall be paid to the sanitary authority, and in the case of a rural sanitary authority shall be credited to the parish on account of which the land was acquired.

BATHS AND WASHHOUSES ACT, 1846.

9 & 10 VICT., c. 74.

An Act to encourage the Establishment of Public Baths and Wash-houses. [26th August, 1846.]

WHEREAS it is desirable for the health, comfort, and welfare of the inhabitants of towns and populous districts to encourage the establishment therein of public baths and wash-houses; and open bathing-places: Be it enacted, that this Act may be adopted for any incorporated borough in England which is regulated under an Act passed in the sixth year of the reign of His late Majesty, to provide for the regulation of municipal corporations, or any charter granted in pursuance of the said Act, or any Act passed for the amendment thereof, and also, with the approval of one of *Her Majesty's principal Secretaries of State** or in any parish in England not within any such incorporated borough.†

Act may be adopted in certain boroughs and parishes.

2. And be it enacted, that in this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

Interpretation of Act.

(*Repealed by Statute Law Revision Act, 1875.*)

“Borough” shall mean city, borough, port, cinque port, or town corporate:

“Churchwardens” shall mean also chapelwardens, or other persons discharging the duties of churchwardens:

“Overseers” shall mean also any persons authorised and required to make and collect or cause to be collected the rate for the relief of the poor of the parish, and acting instead of overseers of the poor:

“Vestry” shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a *select vestry* . . . elected under 1 and 2 Will. 4, c. 60, 1 & 2 Will. 4, or elected under the provisions of any local Act of parliament for the government of any parish by vestries, in which parishes it shall mean such *select vestry* : c. 60.

“Commissioners” shall mean the commissioners appointed in accordance with this Act for any parish, and for the time being in office and acting as such commissioners:

“Clerk” shall mean, as regards an incorporated borough, the town clerk of such borough; and, as regards a parish, the clerk appointed pursuant to this Act by the commissioners:

“Justice” shall mean justice of the peace for the county,

* Now Local Government Board.

† By Public Health Act, 1875, Section 10, urban authorities may adopt this Act. See also Section 7 Local Government Act, 1894 (p. 79).

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riding, division, liberty, borough, or place, where the matter requiring the cognizance of the justices shall arise: "Lands" shall mean lands, tenements, and hereditaments, of whatsoever nature or tenure:

Words importing the masculine gender shall include the feminine:

Words of the plural number shall include the singular, and words of the singular number shall include the plural.

3. (*Repealed by Statute Law Revision Act, 1875.*)

4. (*Partly repealed by Statute Law Revision Act, 1875.*) . . .

The income arising from the baths and wash-houses and open bathing-places in any borough shall be paid to the credit of the borough fund thereof,* and the council shall keep distinct accounts of their receipts, payments, credits, and liabilities, with reference to the execution of this Act, to be called "The Public Baths and Washhouses Account."

On the requisition of ten ratepayers, churchwardens, &c., to convene vestry meeting to determine whether this Act shall be adopted.

5. And be it enacted, that upon the requisition in writing of ten or more ratepayers of any such parish as aforesaid, not being within any such incorporated borough, the churchwardens or other persons to whom it belongs to convene meetings of the vestry in such parish shall convene a meeting of the vestry for the special purpose of determining whether this Act shall be adopted for the parish, after such public notice of such vestry, and the place and hour of holding the same, and the special purpose thereof, given in the usual manner in which notice of the meetings of the vestry is given at least seven days before the day to be appointed for holding such vestry;

If vestry resolve to adopt the Act a copy of resolution to be sent to Secretary of State, &c.

And if thereupon it shall be resolved by the vestry that this Act ought to be adopted for the parish, a copy of such resolution extracted from the minutes of the vestry, and signed by the chairman, shall be sent to *one of Her Majesty's Secretaries of State*† for his approval, and as soon as such approval shall have been signified in writing under the hand of any such Secretary of State, such of the provisions of this Act as are applicable in that behalf shall thenceforth take effect and come into operation in the parish:

No resolution deemed to be carried unless two-thirds vote for it.

Provided always, that no such resolution of the vestry shall be deemed to be carried unless at least two-thirds of the number of votes given on the question according to the usual manner of voting at such vestry shall have been given for such resolution.

Where Act adopted vestry to appoint commissioners for carrying the same into execution.

6. And be it enacted, that in such case the vestry shall appoint not less than three nor more than seven persons, being ratepayers of the parish, commissioners for carrying this Act into execution in the parish, of whom one-third, or as nearly as may be one-third (to be determined amongst themselves), shall go out of office yearly, but shall be eligible for immediate reappointment.

Meeting of the commissioners.

9. And be it enacted, that the commissioners shall meet at least once in every calendar month at their office, or at some other convenient place previously publicly notified.

Special meetings of commissioners.

10. And be it enacted, that the commissioners may meet at such other time as at any previous meeting shall be determined upon, and it shall be at all times competent for any one commissioner, by writing under his hand, to summon, with at least forty-eight hours

* In urban districts the district rate; see 41 Vict., c. 14, s. 2.

† Now the Local Government Board. As to the mode of adopting the Act in rural parishes in future see Sec. 7 L. G. Act, 1894 (p. 79).

notice, the commissioners for any special purpose therein named, **Sec. 10.**
and to meet at such times as shall be therein named.

11. And be it enacted, that at all meetings of the commissioners **Quorum of**
any number not less than one-third of the whole number when **meetings**
more than three commissioners shall have been appointed, and **of commis-**
when only three commissioners shall have been appointed then any **sioners.**
number not less than two commissioners, shall be a sufficient
number for transacting business, and for exercising all the powers
of the commissioners.

12. And be it enacted that the commissioners shall appoint, and **Commis-**
may remove at pleasure, a clerk and such other officers and servants **sioners may**
as shall be necessary for effecting the purposes of this Act, and, with **appoint and**
the approval of the vestry, may appoint reasonable salaries, wages, **remove**
and allowances for such clerk, officers, and servants, and, when **officers, &c.**
necessary, may hire and rent a sufficient office for holding their
meetings and transacting their business, and may agree for and pay
a reasonable rent for such office.

13. And be it enacted, that all orders and proceedings of the **Minutes of**
commissioners shall be entered in books to be kept by them for **proceedings**
that purpose, and shall be signed by the commissioners, or any two **of commis-**
of them; and all such orders and proceedings so entered, and pur- **sioners to be**
porting to be so signed, shall be deemed to be original orders and **entered in a**
proceedings; and such books may be produced and read as evidence **book.**
of all such orders and proceedings upon any appeal, trial, informa-
tion, or other proceeding, civil or criminal, and in any court of law
or equity whatsoever.

14. And be it enacted, that the commissioners shall provide and **Commis-**
keep books in which shall be entered true and regular accounts of **sioners to**
all sums of money received and paid for or on account of the **keep ac-**
purposes of this Act in the parish, and of all liabilities incurred by **counts,**
them for such purposes, and of the several purposes for which such **which shall**
sums of money shall have been paid and such liabilities shall have **be open to**
been incurred. **inspection.**

And such books shall at all reasonable times be open to the
examination of every commissioner, churchwarden, overseer, and
ratepayer, without fee or reward, and they respectively may take
copies of or extracts from such books, or any part thereof, without
paying for the same;

And in case the commissioners, or any of them, or any of their **Penalty for**
officers or servants having the custody of the said books, being **refusing to**
thereunto reasonably requested, shall refuse to permit or shall not **allow in-**
permit any churchwarden, overseer, or ratepayer to examine the **spection.**
same, or take any such copy or extract, every commissioner, officer,
or servant so offending shall for every such offence forfeit any sum
not exceeding five pounds.

15. And be it enacted, that the vestry shall yearly appoint two **Auditors to**
persons, not being commissioners, to be auditors of the accounts of **be appointed**
the commissioners, and at such time in the month of March in **yearly, who**
every year after the adoption of this Act for the parish as the **shall examine**
vestry shall appoint the commissioners shall produce to the auditors **the accounts**
their accounts with sufficient vouchers for all monies received and **and report to**
paid, and the auditors shall examine such accounts and vouchers, **vestries.**
and report thereon to the vestry.

16. And be it enacted, that the expenses of carrying this Act into **Expenses of**
execution in any parish not within any such incorporated borough **executing**
to such amount as shall be from time to time sanctioned by the **Act in any**
parish to be
paid out of
the poor
rate.

Sec. 16. vestry shall be chargeable upon and paid out of the moneys to be raised or applicable for the relief of the poor of the parish.*

Moneys raised and the income arising from baths, &c., in the parish to be applied towards defraying expenses.

18. And be it enacted, that the money raised for defraying the expenses of carrying this Act into execution, and the income arising from the baths and washhouses and open bathing-places in the parish, shall be applied by the commissioners in or toward defraying the expenses of carrying this Act into execution in the parish;

And whenever, after repayment of all moneys borrowed for the purpose of carrying this Act into execution in the parish, and the interest thereof, and after satisfying all the liabilities of the commissioners with reference to the execution of this Act in the parish, and providing such a balance as shall be deemed by the commissioners sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the commissioners, they shall pay the same to the overseers in aid of the rate for the relief of the poor of the parish.

Vestries of two or more parishes may concur in carrying this Act into execution, subject to the approval of Secretary of State.

19. And be it enacted, that the vestries of any two or more neighbouring parishes which shall have respectively adopted this Act may concur in carrying this Act into execution in such parishes in such manner not inconsistent with the provisions of this Act, and for such time, as they shall mutually agree;

And for that purpose it may, with the approval of *such Secretary of State*† be agreed on between such vestries that any public baths and washhouses and open bathing-places shall be erected and made in any one of such parishes, to be vested in the commissioners thereof, and that the expenses of carrying this Act into execution with reference to the same shall be borne by such parishes in such proportions as such vestries shall mutually agree, and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the moneys to be raised for the relief of the poor of the same respective parish accordingly;

And, according and subject to the terms which shall have been so agreed on, the commissioners appointed for each of such parishes shall, in the management of the said baths and washhouses and open bathing-places, form one body of commissioners, and shall act accordingly in the execution of this Act, and the accounts and vouchers of such commissioners shall be examined and reported on by the auditors of each of such parishes;

And the surplus money at the disposal as aforesaid of such commissioners shall be paid to the overseers of such parishes respectively in the same proportions as those in which such parishes shall be liable to such expenses.

Incorporation of commissioners.

20. And for the more easy execution of the purposes of this Act, be it enacted, that the commissioners of every such parish shall be a body corporate, with perpetual succession, which shall not be deemed to be interrupted by any partial or total vacancy from time to time in their office, by the name of "The Commissioners for Public Baths and Washhouses in the parish of (—) in the county of (—)," and by that name may sue and be sued in all courts and before all justices and others, and may

* As to expenses of urban sanitary authorities which adopt this Act see Section 207 Public Health Act, 1875, *post*, page 368.

† Now Local Government Board.

have and use a common seal, and by that name may take, hold, and convey any lands vested in them for the purposes of this Act. Sec. 20.

21. And be it enacted, that for carrying this Act into execution in any borough or parish respectively, the council, with the approval of the [*commissioners of Her Majesty's Treasury* *] and the commissioners with the sanction of the vestry, and also with the approval of the [*commissioners of Her Majesty's Treasury* *], may from time to time borrow at interest, on security of a mortgage, as the case may be, of the borough fund, or of the rates for the relief of the poor of the parish, the money which may be by them respectively required, and shall apply the moneys so borrowed accordingly.†

Councils, &c., may borrow money for the purposes of the Act, with the approval of the Treasury.

22. And be it enacted, that the Public Works Loan Board may from time to time make to the . . . commissioners of any such parish respectively, for the purposes of this Act, any loan under the provisions of the recited Act or the several Acts therein recited or referred to, upon security of . . . the rates for the relief of the poor of the parish. . . .‡

The Public Works Loan commissioners may advance money for the purposes of this Act.

23. And be it enacted, that the provisions of the Companies Consolidated Clauses Act, 1845,§ with respect to the borrowing of money by any company on mortgage, and in the provisions of the same Act with respect to the accountability of the officers of the company, and the provisions of the same Act with respect to the making of bye-laws, subject to the provision hereinafter contained, and the provisions of the same Act with respect to the recovery of damages not specially provided for, and penalties, so far as such provisions may respectively be applicable to the purposes of this Act, shall be respectively incorporated with this Act;

8 & 9 Vict., c. 16, incorporated with this Act for certain purposes.

And the expressions in such provisions applicable to the company and the directors shall apply as regards a borough to the council, and as regards a parish to the commissioners;

And all deeds and writings which under such provisions are required or directed to be made or executed under the common seal of the company shall in the application of such provisions to this Act be deemed to be required or directed to be made or executed as regards a borough under the common seal of the mayor, aldermen, and burgesses, and as regards a parish under the common seal of the commissioners;

And so much of such provisions as are applicable to the "secretary of the company" shall apply to the clerk;

And in such of the said provisions as relate to the inspection of accounts as regards a borough the burgesses, and as regards a parish the ratepayers, shall have the privileges of shareholders.‡

24. And be it enacted, that in any such borough the council with the approval of the Commissioners of Her Majesty's Treasury may from time to time appropriate for the purposes of this Act in the borough any lands vested in the mayor, aldermen, and burgesses;

Council may appropriate, with consent of the Treasury, lands vested in the mayor, &c.

* Now Local Government Board; see 41 Vict., c. 14, s. 9.

† See now the provisions of 41 Vict., c. 14, s. 9, *post*, page 249; see also Section 242, Public Health Act, 1875, page 378.

‡ Part of this section was repealed by Statute Law Revision Act, 1875.

§ See Section 38 and following sections. As to borrowing by parish councils see Section 12, Local Government Act, 1894, p. 92.

Sec. 24. And in any such parish the commissioners appointed under this Act with the approval of the vestry and of the guardians of the poor of the parish (if any), and of the [*Poor Law Commissioners for England and Wales**], may from time to time appropriate for the purposes of this Act in the parish any lands vested in such guardians, or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others for the general benefit of the parish;

And in any such parish the commissioners, with the approval of the vestry, and in any such borough the council, may from time to time contract for the purchasing or renting of any lands necessary for the purposes of this Act, and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the commissioners in the case of a parish.†

25. And be it enacted, that the council and commissioners respectively may from time to time, on any lands so appropriated, purchased or rented, or contracted so to be respectively, erect any buildings suitable for public baths and washhouses, and as to such washhouses either with or without open drying grounds, and make any open bathing-places, and convert any buildings into public baths and washhouses, and may from time to time alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences.

26. And be it enacted, that the council and commissioners respectively may from time to time enter into any contract with any persons or companies for building and making, and for altering, enlarging, repairing, and improving such public baths and washhouses and open bathing-places, and for supplying the same respectively with water, and for lighting the same respectively, and for fitting up the same respectively, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purposes of this Act;

Which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of non-performance; and all such contracts, or true copies thereof, shall be entered in books to be kept for that purpose:

Provided always, that no contract above the value or sum of one hundred pounds shall be entered into by the council or the commissioners, for the purposes of this Act, unless previous to the making thereof fourteen days' notice shall be given in one or more of the public newspapers published in the county in which the borough or parish shall be situated, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the council or commissioners at a certain time and place in such notice to be mentioned, but it shall not be incumbent on the council or commissioners to contract with the person offering the lowest price.

* Now Local Government Board.

† The power given in this section is extended to lands in the immediate neighbourhood of such borough or parish as is there referred to, 45 and 46 Vict., c. 30, *post*, page 251.

27. And be it enacted, that the council of any such borough, and the commissioners, with the approval of the vestry of any such parish, may, if they shall think fit, contract for the purchase or lease of any baths and washhouses already or hereafter to be built and provided in any such borough or parish,* and appropriate the same to the purposes of this Act, with such additions or alterations as they shall respectively deem necessary; and the trustees of any public baths and washhouses which have been already or may hereafter be built or provided in any such borough or parish* by private subscriptions or otherwise may, with the consent of the council of any such borough, or with the consent of the commissioners, and approval of the vestry of any such parish, and with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease the said baths and washhouses to the said council or commissioners respectively, or make over to them the management of such baths and washhouses; and in all such cases the baths and washhouses so purchased or leased, or of which the management has been so made over, shall be deemed to be within the provisions of this Act as fully as if they had been built or provided by the said council or commissioners; and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the commissioners in the case of a parish.†

Council or commissioners may purchase existing baths, &c.

28. And be it enacted, that any commissioners of waterworks, trustees of waterworks, water companies, canal companies, gas companies, and other corporations, bodies, and persons having the management of any waterworks, canals, reservoirs, wells, springs, and streams of water, and gasworks respectively, may in their discretion grant and furnish supplies of water or gas for such public baths and washhouses and open bathing-places either without charge or on such other terms as they shall think fit.‡

Power to water and gas companies to supply water and gas to baths, &c.

29. And be it enacted, that nothing in this Act contained shall render any member of the council of any borough, or any commissioner, personally, or any of their lands, goods, chattels, or moneys (other than such lands, goods, chattels, or moneys as may be vested in or under the management or control of the council or commissioners respectively in pursuance of this Act), liable to the payment of any sum of money as or by way of compensation or satisfaction for or in respect of anything done or suffered in due pursuance of this Act.§

Councillors and commissioners not to be personally liable.

30. And be it enacted, that every person who shall feel aggrieved by any bye-law, order, direction, or appointment of or by the council or commissioners shall have the like power of appeal to the general Quarter Sessions as under the provisions of the Companies Clauses Consolidation Act, 1845, incorporated with this Act, he might have if feeling aggrieved by any determination of any justice with respect to any penalty.

Persons may appeal against orders of councils and commissioners.

31. And be it enacted, that the council, with the approval of the Commissioners of Her Majesty's Treasury, and the commissioners appointed under this Act, with the approval of the vestry, and of the Commissioners of Her Majesty's Treasury respectively, may

Council, &c., empowered to make sale and exchange of lands, with consent.

* The words "or in the immediate neighbourhood of such borough or parish" are to be read as inserted here; see 45 and 46 Vict., c. 30, s. 2, *post*, page 251.

† Compare *Mulholland v. Belfast Corporation*, 9 Ir. Ch. R. 204; 9 Ir. Ch. R. 292.

‡ See Section 65, Public Health Act, 1875.

§ As to liability for negligence: *Cowley v. Sunderland (Mayor)*, 6 H. & C. 565; 30 L. J. Ex. 127; 25 J. P. 434.

Sec. 31. from time to time make sale and dispose of any lands vested in the mayor, aldermen, and burgesses, or in the commissioners respectively, for the purposes of this Act, and apply the proceeds in or towards the purchase of other lands better adapted for such purposes, and may, with the like approval, exchange any lands so vested, and either with or without paying or receiving any money for equality of exchange, for any other lands better adapted for such purposes, and the mayor, aldermen, and burgesses, or the commissioners, may convey the lands so sold or exchanged accordingly.

When baths, &c., are considered too expensive, they may, with approval of Treasury, be sold, and proceeds of sale carried to borough fund or poor's rate.

32. And be it enacted, that whenever any public baths or wash-houses or open bathing-places which shall have been for seven years or upwards established under the authority of this Act shall be determined by the council or by the vestry, in accordance with a previous recommendation of the commissioners, to be unnecessary or too expensive to be kept up, the council or commissioners, with the approval of the Commissioners of Her Majesty's Treasury, may sell the same for the best price that can reasonably be obtained for the same, and the mayor, aldermen, and burgesses, or the commissioners shall convey the same accordingly; and the purchase-money shall be paid to such person as the council or commissioners shall appoint, and his receipt shall be a sufficient discharge for the same; and the net proceeds of such sale shall be paid to the credit of the borough fund, or of the rate for the relief of the poor of the parish.*

Management to be vested in councils and parish commissioners.

33. And be it enacted, that the general management, regulation, and control of the public baths and washhouses and open bathing-places established under this Act shall, subject to the provisions of this Act, be as to any borough vested in and exercised by the council, and as to any parish vested in and exercised by the commissioners.†

Council, &c., may make bye-laws for regulating the use of baths and washhouses, &c., and charges thereat.

34. And be it enacted, that the bye-laws which the council and commissioners respectively may from time to time make, alter, repeal, and enforce shall include such bye-laws for the management, use, and regulation of the public baths and washhouses and open bathing-places, and of the persons resorting thereto respectively, and for determining from time to time the charges for the use of such baths and washhouses and open bathing-places respectively, as the council and commissioners respectively shall think fit, and they respectively may appoint any penalty not exceeding *five pounds* for any and every breach, whether by their officers or servants, or by other persons, of any bye-law made by them respectively; and such bye-laws shall make sufficient provision for the several purposes respectively expressed in the Schedule (A) to this Act:

Bye-laws to be approved by the Secretary of State.

Provided always, that no bye-law made under the authority of this Act shall be of any legal force until the same shall have received the approval of [*one of Her Majesty's principal Secretaries of State*].‡

Copies or abstracts of bye-laws to be hung up in every bath-room, &c.

35. And be it enacted, that a printed copy or sufficient abstract of the bye-laws relating to the use of the baths and open bathing-places respectively shall be put up in every bath-room and open bathing-place respectively; and a printed copy or sufficient abstract

* Or the district fund if transferred to an urban sanitary authority under Public Health Act, 1875.

† Or urban sanitary authority, Section 10, Public Health Act, 1875.

‡ Now the Local Government Board.

of the bye-laws relating to the use of the washhouses shall be kept up in some convenient place near every washing tub or trough, or every pair of washing tubs or troughs, in every wash-house. Sec. 35.

36. And be it enacted, that the number of baths for the labouring classes in any building or buildings under the management of the same council or commissioners shall not be less than twice the number of the baths of any higher class if but one, or of all the baths of any higher classes if more than one, in the same building or buildings. Proportion of baths for the labouring classes.

37. And be it enacted, that the council and the commissioners respectively may from time to time make such reasonable charges for the use of the baths and washhouses and open bathing-places respectively provided under this Act as they shall think fit, but not exceeding such charges as are mentioned in the Schedule (B) annexed to this Act,* unless for the use of any washing tub or trough for more than two hours in any one day, for which any charges may be made which the council or commissioners respectively shall deem reasonable. Charges to be fixed by councils and commissioners not exceeding these in Schedule (B).

38.†

39. And be it enacted, that if any clerk or other officer, or any servant who shall be in any wise employed by any council or commissioners in pursuance of this Act, shall exact or accept any fee or reward whatsoever for or on account of anything done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to putting this Act into execution, other than such salaries, wages, or allowances as shall have been appointed by the council or commissioners, or shall in any wise be concerned or interested in any bargain or contract made by the Council or commissioners for or on account of anything done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to the putting of this Act into execution, or if any person during the time he holds the office of member of the Council or commissioner shall exact or accept any such fee or reward, or shall accept or hold any office or place of trust created by virtue of this Act, or be concerned directly or indirectly in any such bargain or contract, every such person so offending shall be incapable of ever serving or being employed under this Act, and shall for every such offence also forfeit the sum of fifty pounds. Penalty for council, commissioners, or officers taking fees beyond salaries, or being interested in contracts.

40. And be it enacted, that such part of any penalty recovered under this Act as shall not be awarded to the informer shall be paid to the credit, as regards a borough, of the borough fund, and, as regards a parish, of the rate for the relief of the poor thereof. Application of penalties.

41.†

SCHEDULES REFERRED TO BY THE FOREGOING ACT.

SCHEDULE (A).

Bye-laws to be made in all cases.

For securing that the baths and washhouses and open bathing-places shall be under the due management and control of the officers, servants, or others appointed or employed in that behalf by the council or commissioners.

* Schedule (B) was repealed by 10 and 11 Vict., c. 61, s. 6, *post* page 246.

† Repealed by Statute Law Revision Act, 1875.

Sched. For securing adequate privacy to persons using the baths and washhouses and open bathing-places, and security against accidents to persons using the open bathing-places.

For securing that men and boys above eight years old shall bathe separately from women and girls and children under eight years old.

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

For determining the duties of the officers, servants, and others appointed by the council or commissioners.

In parishes. For regulating the procedure of the commissioners.

SCHEDULE (B).—Repealed by Statute Law Revision Act, 1875.

BATHS AND WASHHOUSES ACT, 1847.

10 & 11 VICT., C. 61.

An Act to amend the Act for the Establishment of Public Baths and Washhouses. [2nd July, 1847.]

9 & 10 Vict.,
c. 74.
Recited Act
and this Act
to be con-
strued as one.

WHEREAS an Act was passed in the last session of Parliament, intituled "An Act to encourage the Establishment of Public Baths and Washhouses;" and whereas it is expedient to afford additional facilities for the establishment of public baths and washhouses and open bathing-places: Be it enacted, that the recited Act, as amended by this Act, shall be construed and carried into execution as one Act.

Interpreta-
tion of ex-
pressions in
recited Act
and this Act.

2. And be it enacted and declared, that the following words and expressions in the recited Act shall have in the said Act, and this Act, the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

"Parish" shall mean not only every place having separate overseers of the poor, and separately maintaining its own poor, but also every place maintaining its own poor and having a vestry.

"Ratepayers" shall mean all persons for the time being assessed to and paying rates for the relief of the poor of the parish.

"Vestry" shall mean not only a vestry as defined in the said Act, but also any body of persons, by whatever name distinguished, acting by virtue of any Act of Parliament, prescription, custom, or otherwise, as or instead of a vestry or select vestry.

Words
repealed by
Stat. Law
Revision Act,
1875.

3. . . . All acts and proceedings of any person in possession of the office of such commissioner, and acting in good faith as such commissioner, whether appointed before or after the passing of this Act, shall, notwithstanding his disqualification or want of qualification for or any defect or irregularity in or in any way concerning his appointment to such office, be as valid and effectual as if he were duly qualified, or there had not been any such defect or irregularity.

Incorporation
of 8 & 9
Vict., c. 18.

4. And be it enacted, that the Lands Clauses Consolidation Act, 1845, shall be incorporated with the recited Act and this Act:

Provided always, that the council and commissioners respectively shall not purchase or take any lands otherwise than by agreement.

5. And be it enacted, that the number of washing tubs or troughs for the labouring classes, in any building or buildings under the management of the same council or commissioners, shall not be less than twice the number of the washing tubs or troughs of any higher class, if but one, or of all the higher classes if more than one, in the same building or buildings.

6. (*Repealed by Statute Law Revision Act, 1875.*)

7. And be it enacted, that the council and the commissioners respectively may from time to time make such reasonable charges for the use of the baths and washhouses and open bathing-places provided under the recited Act and this Act respectively as they think fit, not exceeding the charges mentioned in the Schedule annexed to this Act.

8.

Sec. 4.
Council, &c.,
not to take
lands, &c.
Proportion
of washing
accommoda-
tion for
labouring
classes.

Power to
make charges
for use of
baths, &c.,
not exceed-
ing those in
the Schedule.

SCHEDULE TO WHICH THIS ACT REFERS.

CHARGES FOR THE BATHS AND WASHHOUSES AND OPEN BATHING-PLACES.

1. *Baths for the Labouring Classes.*

Every bath to be supplied with clean water for every person bathing alone, or for several children bathing together, and in either case with one clean towel for every bather.

For one person above eight years old :

Cold bath or cold shower bath, any sum not exceeding - - - - - One penny.

Warm bath, or warm shower bath, or vapour bath, any sum not exceeding - - - - - Twopence.

For several children, not above eight years old, nor exceeding four bathing together :

Cold bath, or cold shower bath, any sum not exceeding - - - - - Twopence.

Warm bath, or warm shower bath, or vapour bath, any sum not exceeding - - - - - Fourpence.

2. *Baths of any Higher Class.*

Such charge as the council and the commissioners respectively think fit, not exceeding in any case three times the charges above mentioned for the several kinds of baths for the labouring classes.

3. *Washhouses for the Labouring Classes.*

Every washhouse to be supplied with conveniences for washing and drying clothes and other articles.

For the use by one person of one washing tub or trough, and of a copper or boiler (if any), or, where one of the washing tubs or troughs shall be used as a copper or boiler, for the use of one pair of washing tubs or troughs, and for the use of the conveniences for drying :

For one hour only in any one day, any sum not exceeding - - - - - One penny.

For two hours together, in one day, any sum not exceeding - - - - - Threepence.

Any time over the hour or two hours respectively, if not exceeding five minutes, not to be reckoned.

Sched. For two hours not together, or for more than two hours in any one day, such charges as the council and the commissioners respectively think fit.

For the use of the washing conveniences alone, or of the drying conveniences alone, such charges as the council and the commissioners respectively think fit, but not exceeding in either case the charges for the use for the same time of both the washing and the drying conveniences.

4. Washhouses of any Higher Class.

Such charges as the council and the commissioners respectively think fit.

5. Open Bathing-places.

Where several persons bathe in the same water, for one person, one (halfpenny*).

BATHS AND WASHHOUSES ACT, 1878.

41 & 42 VICT., C. 14.

A.D. 1878. An Act to amend the Law relating to Public Baths and Wash-
houses. [27th May, 1878.]

WHEREAS the Act passed in the session held in the ninth and tenth years of the reign of Her present Majesty, Chapter seventy-four, intituled "An Act to encourage the establishment of Public Baths and Washhouses," was amended by the Act passed in the session held in the tenth and eleventh years of the reign of Her present Majesty, Chapter sixty-one, intituled "An Act to amend the Act for the establishment of Public Baths and Washhouses," and it is expedient further to amend the said first-recited Act, and to provide for the establishment of covered swimming baths and other purposes:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. 1. This Act may be cited for all purposes as the Baths and Washhouses Act, 1878.

"Covered swimming bath." The words "covered swimming bath" in this Act shall mean a swimming bath protected by a roof or other covering from the weather.

Construction of Act. 2. This Act and the recited Acts, as amended by the Statute Law Revision Act, 1875, and the Public Health Act, 1875, and by this Act, shall be construed and carried into execution as one Act; and the words "the council and the commissioners" when used in this Act shall include the urban authority mentioned in the tenth section of the Public Health Act, 1875.

Covered swimming baths authorised. 3. All the provisions of the recited Acts respectively shall be construed to extend and to have extended from the passing of such Acts respectively to covered swimming baths as well as to baths, washhouses, and open bathing-places.

* Now one penny; see 41 Vict., c. 14, s. 14, *post*, page 250.

4. The council and the commissioners respectively may from time to time provide covered swimming baths, and make such reasonable charges for the use thereof as they shall think fit, not exceeding the charges mentioned in the Schedule annexed to this Act.

As to charges for swimming baths.

5. The council and the commissioners respectively may during such period, not exceeding five months in any one year, as they shall think fit, from the beginning of the month of November to the end of the month of March, close any covered swimming bath or open swimming bath, and may either keep the same closed or may establish therein a gymnasium or such other means of healthful recreation as they shall think fit, or may during such period allow any covered or open swimming bath to be used as an empty building for such purposes of healthful recreation or exercise as they shall think fit during such period as aforesaid, and may at any time allow any portion of the public baths not required by the commissioners to be used for holding vestry meetings or other parochial purposes: Provided always, that no covered or open swimming bath when closed may be used for music or dancing.

Power to close swimming baths for a limited period.

6. The council and the commissioners respectively may make bye-laws for the regulation, management, and use of the open or swimming baths when used for any of the purposes mentioned in the fifth section of this Act; and all the provisions in the principal Act relating to bye-laws shall extend and apply to bye-laws made under this section.

Power to make bye-laws.

7. The council and the commissioners respectively may appoint and remove at pleasure such officers and servants as shall be necessary for the management and superintendence of any gymnasium or other means of recreation established under this Act, and may appoint reasonable salaries, wages, and allowances for such officers and servants.

Power to appoint officers.

8. The council and the commissioners respectively may from time to time make such reasonable charges for the use of the gymnasium or other means of recreation established under this Act, or for the use of any covered swimming bath as an empty room, as they shall think fit.

Power to make charges for gymnasium, &c.

9. The provisions in the twenty-first, twenty-second, and twenty-third sections of the principal Act authorising the borrowing and advancement of money for the purposes of that Act shall be taken to authorise the borrowing and advancement of money in like manner for the purposes of this Act; and the approval of the Local Government Board shall be substituted for that of the Commissioners of Her Majesty's Treasury in all cases where money is borrowed for the purposes of the principal Act or this Act.

Powers of borrowing, &c., extended to this Act.

10. The council and the commissioners respectively, and their respective servants and agents, may remove any person offending against any of the bye-laws under this Act and the recited Acts, or any of them; and any bath or washhouse, or open bathing-place, or covered swimming bath, established under this Act and the recited Acts, or any of them, shall be taken to be a public and open place, so as to make offences against decency therein criminal offences.

Power to remove offenders. Baths, &c., to be considered public and open places.

11. The council and the commissioners respectively, and their respective officers and servants, may refuse admittance to any bath, washhouse, open bathing-place, or covered swimming bath, or any

Power to refuse admittance to baths, &c., to offenders.

- Sec. 11. of them, to any person (1) who shall have been convicted of wilfully disobeying any of the bye-laws in such bath, washhouse, open bathing-place, or covered swimming bath; (2) who shall have been convicted of any offence against public decency in any of such baths, washhouses, open bathing-places, or covered swimming baths as aforesaid.
- Power to make superannuation allowances to officers, &c., employed about baths, &c., within the metropolis. 12. The provisions of an Act passed in the session held in the twenty-ninth year of the reign of Her present Majesty, Chapter thirty-one, intituled "An Act to provide for superannuation allowances to officers of vestries and other boards within the area of the Metropolis Local Management Act," shall extend to and include officers and servants employed in and about any baths, washhouses, open bathing-places, or covered swimming baths established under this Act and the recited Acts, or any of them, by the council or the commissioners within the area of the Metropolis Local Management Act.
- Expenses of Act and income arising to be applied as under Principal Act. 13. The expense of carrying this Act into execution shall be defrayed, and the income arising from the use in any manner of any covered swimming bath established under the provisions of this Act and the recited Acts, or any of them, shall be applied, in the same manner as that in which the expenses of the principal Act are thereby directed to be defrayed, and the income arising from baths and washhouses and open bathing-places is thereby directed to be applied.
- Increase of charge. 14. The charge of one halfpenny, fixed by the tenth and eleventh Victoria, Chapter sixty-one, Section seven, and Part five of the Schedule to that Act, shall be increased to one penny.

THE SCHEDULE ABOVE REFERRED TO.

Charges for covered Swimming Baths.

- 1st Class.—Any sum not exceeding eightpence for each person.
 2nd Class.—Any sum not exceeding fourpence for each person.
 3rd Class.—Any sum not exceeding twopence for each person.

BATHS AND WASHHOUSES ACT, 1882.

45 & 46 VICT., C. 30.

A.D. 1882. An Act to amend the Baths and Washhouses Acts.

[24th July, 1882.]

WHEREAS it is desirable to give increased facilities to local authorities for providing baths and washhouses within easy and convenient reach:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as the Baths and Washhouses Act, 1882, and shall be read as one with the Act of the

ninth and tenth years of the reign of Her present Majesty, Chapter seventy-four, in this Act called "the principal Act." Sec. 1.

2. Section twenty-seven of the principal Act shall be amended by the addition of the words "or in the immediate neighbourhood of such borough or parish" to the words "in any such borough or parish" wherever such last-mentioned words occur in the said section. Amendment of 9 & 10 Vict., c. 74, s. 27.

3. The power conferred by Section twenty-four of the principal Act to purchase or rent lands for the purposes of that Act shall extend to lands in the immediate neighbourhood of such borough or parish as is therein referred to. Amendment of 9 & 10 Vict., c. 74, s. 24.

BURIAL ACTS, 1852 TO 1885.

15 and 16 Vict., c. 85	23 and 24 Vict., c. 64
16 and 17 Vict., c. 134	25 and 26 Vict., c. 100
17 and 18 Vict., c. 87	34 and 35 Vict., c. 33
18 and 19 Vict., c. 128	43 and 44 Vict., c. 41
20 and 21 Vict., c. 81	44 and 45 Vict., c. 2
22 and 23 Vict., c. 1	48 and 49 Vict., c. 21

By Section 7 of the Local Government Act, 1894, power is given to every parish meeting to adopt the above Acts.

It will be remembered that sanitary authorities, rural and urban, were empowered by the Public Health (Interments) Act, 1879, to provide cemeteries for their districts. For that purpose the Cemeteries Clauses Act, 1847, was incorporated with that Act,* and all the provisions of the Public Health Act, 1875, with respect to a mortuary were extended to a cemetery. Further, in Schedule V, Part 3, of the Public Health Act, 1875, certain provisions of repealed statutes were re-enacted, under which local boards might become burial boards under the "Burial Acts." District councils, urban and rural, will have all the powers of sanitary authorities under the Public Health Act, 1875, and the Public Health (Interments) Act, 1889; whilst parish councils will be the managing authorities under the Burial Acts, 1852 to 1885.

BURIAL ACT, 1852.

15 & 16 VICT., c. 85.

An Act to amend the Laws concerning the Burial of the Dead in the Metropolis. [1st July, 1852.]

(Preamble repealed by Statute Law Revision Act, 1892.)

1. (Repealed by Statute Law Revision Act, 1875.)

* These two Acts are not included in the expression "Burial Acts, 1852 to 1885."

On representation of Secretary of State, Her Majesty in Council may order discontinuance of burials in any part of the metropolis.

2. In case it appear to Her Majesty in Council, upon the representation of one of Her Majesty's Principal Secretaries of State, that for the protection of the public health burials in any part or parts of the metropolis, or in any burial grounds or places of burial in the metropolis, should be wholly discontinued, or should be discontinued subject to any exception or qualification, it shall be lawful for Her Majesty, by and with the advice of her Privy Council, to order* that after a time mentioned in the order burials in such part or parts of the metropolis or in such burial grounds or places of burial shall be discontinued wholly, or subject to any exceptions or qualifications mentioned in such order, and so from time to time as circumstances may require; provided that notice of such representation, and of the time when it shall please Her Majesty to order the same to be taken into consideration by the Privy Council, shall be published in the *London Gazette*, and shall be affixed on the doors of the churches or chapels of the parishes in which any burial grounds or places of burial affected by such representation shall be situate, or on some other conspicuous places within the part or parts of the metropolis affected by such representation, one calendar month . . . † at the least before such representation is so considered: Provided always, that no such representation shall be made in relation to the burial ground of any parish until ten days' previous notice of the intention to make such representation shall have been given to the incumbent and the vestry clerk of such parish.

Order not to extend to burial grounds of Quakers or Jews unless expressly included.

3. No such order in Council as aforesaid shall be deemed to extend to any burial ground of the people called Quakers, or of the persons of the Jewish persuasion, used solely for the burial of the bodies of such people and persons respectively, unless the same be expressly mentioned in such order; and nothing in this Act shall prevent the burial in any such burial ground in which for the time being interment is not required to be discontinued of the bodies of such people and persons respectively; and no such order in Council as aforesaid shall be deemed to extend to any non-parochial burial ground being the property of any private person, unless the same be expressly mentioned in such order.

Burial not to take place after order in Council for discontinuance.

4. It shall not be lawful, after the time mentioned in any such order in Council for the discontinuance of burials, to bury the dead in any church, chapel, churchyard, or burial place, or elsewhere, within the part or parts of the metropolis or in the burial grounds or places of burial (as the case may be) in which burials have by any such order been ordered to be discontinued, except as in this Act or in such order excepted; and every person who shall, after such time as aforesaid, bury any body, or in any wise act or assist in the burial of any body, contrary to this enactment, shall be guilty of a misdemeanour.

Restriction as to place of burial of inhabitants of parishes the burial grounds whereof are closed.

5. After the time from which burials in any place of burial of any parish are required under this Act to be discontinued, the body of any parishioner or inhabitant of such parish shall not be buried in any burial ground within the metropolis belonging to any other parish within the metropolis, save where the body of any of the family or relatives of such parishioner or inhabitant has been in-

* See 16 and 17 Vict., c. 134, s. 1. As to closing private burial grounds see *Moreland v. Richardson*; 24 Beav. 33; 26 L. J. Ch. 690; 3 Jur. n.s. 1189.

† Words repealed by Statute Law Revision Act, 1875.

terred in such burial ground, and the relatives or other persons having the care and direction of the funeral signify a desire that on that account the body of such parishioner or inhabitant should be there interred (such burial ground not being a burial ground in which burials have been ordered to be discontinued under this Act), and save as herein otherwise provided; and every person having the care or control of any burial ground who knowingly authorises or permits any burial therein contrary to this enactment shall be guilty of a misdemeanour.

Sec. 5.

6. Provided always, that notwithstanding any such order in Council, where by virtue of any faculty legally granted, or by usage or otherwise, there is at the time of the passing of this Act any right of interment in or under any church or chapel affected by such order, or in any vault of any such church or chapel, or of any churchyard or burial ground affected by such order, and where any exclusive right of interment in any such burial ground has been purchased or acquired before the passing of this Act, it shall be lawful for one of Her Majesty's principal Secretaries of State from time to time, on application being made to him, and on being satisfied that the exercise of such right will not be injurious to health, to grant licence for the exercise of such right during such time and subject to such conditions and restrictions as such Secretary of State may think fit, but such licence shall not prejudice or in any wise affect the authority of the ordinary, or of any other person who, if this Act had not been passed, might have prohibited or controlled interment under such right, nor dispense with any consent which would have been required, nor otherwise give to such right any greater force or effect than the same would have had if this Act had not been passed.

Saving of certain rights to bury in vaults, &c.

7. The provisions of this Act shall not extend to authorise the discontinuance of burials, or to prevent the burial of the body of any person in any of the cemeteries mentioned in the schedule (B.) to this Act, or in any burial ground or cemetery to be hereafter provided with the approval of one of Her Majesty's principal Secretaries of State, as herein mentioned.

Saving as to cemeteries in Schedule (B.) and new burial grounds hereafter approved of by Secretary of State.

8. Nothing in this Act contained shall extend to prevent the interment in the cathedral church of St. Paul's, London, or in the collegiate church of St. Peter's, Westminster, of the body of any person where Her Majesty, by any writing under Her Royal Sign Manual, shall signify her pleasure that the body be so interred.

Saving as to St. Paul's Cathedral and Westminster Abbey New burial grounds in the metropolis to be approved by Secretary of State. Church-wardens, after order, or at any time upon requisition

9. No new burial ground or cemetery (parochial or non-parochial) shall be provided and used in the metropolis, or within two miles of any part thereof, without the previous approval of one of Her Majesty's principal Secretaries of State.

10. Upon the requisition in writing of ten or more ratepayers of any parish in the metropolis * in which the place or places

* Where a parish has been divided for *ecclesiastical* purposes the vestry of the old parish may appoint a burial board, and in a case where this was done and neither of the new ecclesiastical parishes had appointed a burial board, the overseers of the old parish had to pay the board's expenses out of the poor rate of the entire parish. Reg. v.

Sec. 10. of ten rate-payers, to convene vestry meeting to determine whether a burial ground shall be provided. of burial shall appear to such ratepayers insufficient or dangerous to health (and whether any order in Council in relation to any burial ground in such parish has or has not been made), the churchwardens or other persons to whom it belongs to convene meetings of the vestry,* for the special purpose of determining whether a burial ground shall be provided under this Act for the parish; and public notice of such vestry meeting, and the place and hour of holding the same, and the special purpose thereof, shall be given in the usual manner in which notices of the meetings of the vestry are given, at least seven days before holding such vestry meeting; and if it be resolved by the vestry that a burial ground shall be provided under this Act for the parish, a copy of such resolution, extracted from the minutes of the vestry, and signed by the chairman, shall be sent to one of Her Majesty's principal Secretaries of State.

In case vestry agree to provide a burial ground, burial board to be appointed.

Resignation of members.

11.† In case of such resolution as aforesaid the vestry‡ shall appoint not less than three nor more than nine persons, being rate-payers of the parish, to be the burial board of such parish, of whom one third, or as nearly as may be one third (to be determined among themselves), shall go out of office yearly, at such time as shall be from time to time fixed by the vestry, but shall be eligible for immediate re-appointment: Provided always, that the incumbent of the parish shall be eligible to be appointed and re-appointed from time to time as one of the members of the said board, although not a ratepayer of the parish; provided also, that any member of the board may at any time resign his office, on giving notice in writing to the churchwardens or persons to whom it belongs to convene meetings of the vestry.

12. (*Repealed by Statute Law Revision Act, 1875.*)

Meetings of the board.

13.† The board shall meet at their office or some other convenient place previously publicly notified, and the said board may meet at such other time as at any previous meeting shall be determined upon; and it shall be at all times competent for any two members of the board by writing under their hands to summon, with at least forty-eight hours' notice, the board for any special purpose mentioned in such writing, and to meet at such time as shall be appointed therein.

Quorum of meetings of the board.

14.† At all meetings of the board any number not less than three members of such board shall be a sufficient number for transacting business, and for exercising all the powers of the board.

Board may appoint and remove officers, &c.

15.† The board shall appoint, and may remove at pleasure, a clerk and such other officers§ and servants as shall be necessary for
Walcot, 2 B. and S. 555; 31 L. J. M. C. 217; 6 L. T. 325; 10 W. R. 599.

Question whether select vestry or general vestry should elect burial board, Reg. v. Gladstone, 7 El. and Bl. 575; 26 L. J. Q. B. 213; 3 Jur. n.s. 441.

"Parish," see Reg. v. Sudbury B. Bd., El. Bl. and El. 264; 27 L. J. Q. B. 232; 4 Jur. n.s. 948.

* See now Section 7, Local Government Act, 1894, p. 79.

† Applies to parishes outside the metropolis; see 16 and 17 Vict., c. 134, s. 7.

‡ See now Local Government Act, 1894, s. 7, sub-s. 7 and 8, p. 80.

§ As to the parish sexton's right to dig the graves of parishioners in

the business of the board and for the purposes of their burial ground, and, with the approval of the vestry, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and, when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business. **Sec. 15.**

16.* Entries of all proceedings of the board, with the names of the members who attend each meeting, shall be made in books to be provided and kept for that purpose, under the direction of the board, and shall be signed by the members present or any two of them; and all entries purporting to be so signed shall be received as evidence, without proof of any meeting of the board having been duly convened or held, or of the presence at any such meeting of the persons named in any such entry as being present thereat, or of such persons being members of the board, or of the signature of any person by whom any such entry purports to be signed, all which matters shall be presumed until the contrary be proved; and the board shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid for or on account of the purposes of this Act in the parish, and of all liabilities incurred by them for such purposes, and of the several purposes for which such sums of money are paid and such liabilities incurred.

Minutes of proceedings of board to be entered in a book.

Board to keep accounts, which shall be open to inspection.

17.* All such books shall at all reasonable times be open to the examination of every member of such board, churchwarden, overseer, and ratepayer, without fee or reward, and they respectively may take copies of or extracts from such books, or any part thereof, without paying for the same; and in case the members of such board, or any of them, or any of the officers or servants of such board having the custody of the said books, being thereunto reasonably requested, refuse to permit or do not permit any churchwarden, overseer, or ratepayer to examine the same, or take any such copies or extracts, every such member, officer, or servant so offending shall for every such offence, upon a summary conviction thereof before any justice of the peace, forfeit any sum not exceeding five pounds.

Penalty for refusing to allow inspection.

18.* The vestry shall yearly appoint two persons not being members of the board to be auditors of the accounts of the board, and at such time in the month of March in every year as the vestry shall appoint the board shall produce to the auditors their accounts, with sufficient vouchers for all moneys received and paid, and the auditors shall examine such accounts and vouchers, and report thereon to the vestry.

Auditors to be appointed yearly, who shall examine the accounts, and report to vestries.

19.* The expenses incurred or to be incurred by the burial board of any parish in carrying this Act into execution shall be chargeable upon and paid out of the rates for the relief of the poor of such parish; the expenses to be so incurred for or on account of any parish in providing and laying out a burial ground under this Act and building the necessary chapel or chapels thereon not to exceed such sum as the vestry shall authorise to be expended for such purpose; and the overseers or other officers authorised to make and levy rates

Expenses to be paid out of the poor's rate.

the new burial ground *see* St. Margaret's, Rochester, *v.* Thompson, L. R. 6 C. P. 445; 40 L. J. C. P. 213; 24 L. T. 673; 19 W. R. 892; 36 J. P. 228.

* Applies to parishes outside the metropolis; *see* 16 and 17 Vict., c. 134, s. 7.

Sec. 19. for the relief of the poor in any parish shall, upon receipt of a certificate under the hands of such number of members of the burial board as are authorised to exercise the powers of the board of the sums required from time to time for defraying any such expenses as aforesaid pay such sums out of the rates for the relief of the poor as the board shall direct.

Power to borrow money, with sanction of vestry and approval of the Treasury.

20.* Provided always, that it shall be lawful for the board, with the sanction of the vestry and the approval of . . . the Treasury, to borrow any money required for providing and laying out any burial ground under this Act, and building a chapel or chapels thereon, or any of such purposes, and to charge the future poor rates of the parish with the payment of such money and interest thereon.† . . . (*Words repealed by Statute Law Revision Act, 1892.*)

Remainder of section repealed by 20 & 21 Vict., c. 81, s. 18. The Public Works Loan Commissioners may advance money for the purposes of this Act.

21.* The Commissioners for carrying into execution an Act of the session holden in the fourteenth and fifteenth years of Her Majesty, chapter twenty-three, "to authorise for a further period the advance of money out of the Consolidated Fund to a limited amount for carrying on public works and fisheries and employment of the poor," and any Act or Acts amending or continuing the same, may from time to time make to the burial board of any parish for the purposes of this Act any loan under the provisions of the recited Act, or the several Acts therein recited or referred to, upon security of the rates for the relief of the poor of the parish.

Moneys raised and the income arising from burial ground, to be applied towards defraying expenses.

22.* The money raised for defraying such expenses, and the income arising from the burial ground provided for the parish, except fees payable to the incumbent, clerk, and sexton of the parish, and the other fees herein directed to be otherwise paid, shall be applied by the board in or towards defraying the expenses of such board under this Act; and whenever, after repayment of all moneys borrowed for the purposes of this Act in or for any parish and the interest thereof, and after satisfying all the liabilities of the board with reference to the execution of this Act in or for the parish, and providing such a balance as shall be deemed by the board sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the board, they shall pay the same to the overseers, in aid of the rate for the relief of the poor of the parish.

Vestries of parishes may concur in providing a burial ground for the common use of such parishes.

23.* The vestries of any parishes which shall have respectively resolved to provide burial grounds under this Act may concur in providing one burial ground for the common use of such parishes, in such manner, not inconsistent with the provisions of this Act, as they shall mutually agree, and may agree as to the proportions in which the expense of such burial ground shall be borne by such parishes, and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the moneys to be raised for the relief of the poor of the same respective parish accordingly; and, according and subject to the terms which shall have been so agreed on, the burial boards appointed for such

* Applies to parishes outside the metropolis; see 16 and 17 Vict., c. 134, s. 7.

† As to apportionment of a loan for burial ground in a parish which afterwards became divided for civil purposes see Reg. v. Colleshill, 34 L. J. Q. B. 96.

parishes respectively shall, for the purpose of providing and managing such one burial ground, and taking and holding land for the same, act as one joint burial board for all such parishes, and may have a joint office, clerk, and officers, and all the provisions of this Act shall apply to such joint burial board accordingly; and the accounts and vouchers of such board shall be examined and reported on by the auditors of each of such parishes; and the surplus money at the disposal as aforesaid of such board shall be paid to the overseers of such parishes respectively in the same proportions as those in which such parishes shall be liable to such expenses.

Sec. 23.

24.* For the more easy execution of the purposes of this Act the burial board of every parish appointed under this Act shall be a body corporate, by the name of "The Burial Board for the Parish of () in the County of ()," and by that name shall have perpetual succession and a common seal, and shall sue and be sued, and have power and authority (without any licence in mortmain) to take, purchase, and hold land for the purposes of this Act; and where the burial boards of two or more parishes act as and form one joint burial board for all such parishes for the purposes aforesaid, such joint board shall for such purposes only be a body corporate by the name of "The Burial Board for the Parishes of and in the County of ,," and by that name shall have perpetual succession and a common seal, and shall sue and be sued and have power and authority as aforesaid to take, purchase, and hold land for the purposes of this Act.

Incorporation of burial boards.

25.* Every burial board shall, with all convenient speed, proceed to provide a burial ground for the parish or parishes for which they are appointed to act, and to make arrangements for facilitating interments therein; and in providing such burial ground the board shall have reference to the convenience of access thereto from the parish or parishes for which the same is provided; and any such burial ground may be provided either within or without the limits of the parish, or all or any of the parishes, for which the same is provided. . . . (*Words repealed by 18 & 19 Vict., c. 128, s. 9.*)

Board to provide a burial ground, which may be within or without the parish.

26.* For the providing such burial ground it shall be lawful for the burial board, with the approval of the vestry or vestries of the parish or respective parishes, to contract for and purchase any lands for the purpose of forming a burial ground, or for making additions to any burial ground to be formed or purchased under this Act, as such board may think fit, or to purchase from any company or persons entitled thereto any cemetery or cemeteries, or part or parts thereof, subject to the rights in vaults and graves, and other subsisting rights, which may have been previously granted therein: Provided always, that it shall be lawful for such board, in lieu of providing any such burial ground, to contract with any such company or persons entitled as aforesaid for the interment in such cemetery or cemeteries, and either in any allotted part of such cemetery or cemeteries or otherwise, and upon such terms as the burial board may think fit, of the bodies of persons who would have had rights of interment in the burial grounds of such parish or respective parishes.

Board may, with approval of vestry, purchase land for cemeteries.

* Applies to parishes outside the metropolis; see 16 and 17 Vict., c. 134, s. 7 (p. 272).

Certain provisions of 8 & 9 Vict., c. 18, incorporated with this Act.

27.* "The Lands Clauses Consolidation Act, 1845," except the provisions of that Act "with respect to the purchase and taking of lands otherwise than by agreement," "with respect to the recovery of forfeitures, penalties, and costs," "with respect to lands acquired by the promoters of the undertaking under the provisions of the Lands Clauses Consolidation Act, 1845, or the special Act, or any Act incorporated therewith, but which shall not be required for the purposes thereof," and "with respect to the provision to be made for affording access to the special Act by all parties interested," shall be incorporated with this Act; and for the purposes of this Act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean any such burial board.

Power to sell lands not wanted.

28.* It shall be lawful for any such board, with the approval of the vestry, to sell and dispose of any lands purchased by them under this Act, or any part thereof, in which no interment shall have taken place, and which it may appear to the board may be properly sold or disposed of; and for completing and carrying any such sale into effect such board may make and execute a conveyance of the lands sold and disposed of as aforesaid unto the purchaser, or as he shall direct; and such conveyance shall be under the hands of at least two of the members of the board, and under the seal of the board; and the word "grant" in such conveyance shall have the same operation as by the said Lands Clauses Consolidation Act, 1845, is given to the same word in a conveyance of lands made by the promoters of the undertaking; and a receipt under the hands of two of the members of the board shall be a sufficient discharge to the purchaser of any such lands for the purchase-money in such receipt expressed to be received; and the money to arise from such sale shall be applied to such of the purposes of this Act as the board shall think fit.

Burial board may, with approval of vestry, &c., appropriate land belonging to parish.

29.* Provided always, that any burial board under this Act, with the approval of the vestry and of the guardians of the poor of the parish (if any) and of the [poor law board†], may from time to time appropriate for the purposes of a burial ground for such parish, either alone or jointly with any other parish or parishes, any land vested in such guardians, or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish or for any specific charity: Provided always, that where any land so taken and appropriated shall be subject to any charitable use such lands shall be taken on such conditions only as the Court of Chancery in the exercise of its jurisdiction over charitable trusts shall appoint and direct.

Board may lay out burial ground, and build a chapel, for performance of burials according to rites of Established Church.

30.* It shall be lawful for any burial board to lay out and embellish any burial ground provided by such board in such manner as may be fitting and proper, and to build on any land to be purchased or appropriated for a burial ground under this Act, and according to a plan to be approved of by the bishop of the diocese, a chapel for the performance of the burial service according to the rites of the united Church of England and Ireland; and such burial

* Applies to parishes outside the metropolis; see 16 and 17 Vict., c. 134, s. 7 (p. 272).

† Now Local Government Board.

ground may be consecrated by the bishop of the diocese when the same shall appear to him to be in a fit and proper condition for the purposes of interment according to the rites of the united Church: Provided always, that in providing any burial ground such board shall set apart a portion thereof which shall not be so consecrated as aforesaid, and may build thereon a suitable chapel or chapels for the performance of funeral service.*

Sec. 30.

Ground may be set apart for building a chapel, &c.

31.† Any burial board may from time to time enter into any contract with any persons or companies for building any chapel or chapels as aforesaid, and enclosing, laying out, and embellishing any burial ground, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purposes of this Act, which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of non-performance; and all such contracts, or true copies thereof, shall be entered in books to be kept for that purpose: Provided always, that no contract above the value or sum of one hundred pounds shall be entered into by such burial board for the purposes of this Act, unless previous to the making thereof fourteen days' notice shall be given in one or more of the public newspapers published in the county or counties in which the parish or respective parishes shall be situated, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the burial board at a certain time and place in such notice to be mentioned, but it shall not be incumbent on the burial board to contract with the person offering the lowest price.

Burial board may contract for works to be done.

No contract above £100 to be entered into without notice.

32.‡ From and after the consecration§ as aforesaid of any burial ground provided under this Act (except any portion thereof intended not to be so consecrated), or where all or any part of such burial ground, by reason of the same having been already consecrated, shall not require to be consecrated, then, from and after such time as the bishop of the diocese shall appoint, such burial ground shall be deemed the burial ground of the parish for which the same is provided, and where the same is provided for two or more parishes such burial ground shall be in law as if such parishes were one parish, and as if such burial ground were the burial ground of such one parish; and every incumbent§ or minister of the parish or of each of the parishes (as the case may be) for which

Burial ground to be the burial ground of the parish or parishes for which it is provided.

* The parish sexton has a right to toll the chapel bell in the new burial ground at the funerals of parishioners; *see* St. Margaret's, Rochester, *v.* Thompson, L. R. 6 C. P. 445; 40 L. J. C. P. 213; 24 L. T. 673; 19 W. R. 892; 36 J. P. 228.

† Applies to parishes outside the metropolis; *see* 16 and 17 Vict., c. 134, s. 7 (p. 272).

‡ Burial board must not permit a person to perform burial service in the consecrated part of their cemetery unless he is authorised by the incumbent to do so. *Wood v. Headingley Burial Board* (1892) 1 Q. B. 713; 66 L. T. 90; 40 W. R. 390; 56 J. P. 326; *see also* Johnson *v.* Friend, 6 Jur. n.s. 280.

Where entrance to vault was on unconsecrated ground, *see* Rugg *v.* Kingmill, 2 L. R. P. C. 59; 37 L. J. Ecc. 13; 18 L. T. 94; 5 Moore P. C. C. n.s. 79.

§ Cemetery formed by a burial board for a parish which never had any burial ground: the incumbent is bound to perform the services in the consecrated part of the cemetery over bodies of parishioners and in-

Sec. 32. such burial ground is provided shall, by himself and his curate, or such duly qualified persons as such incumbent or minister may authorise,* perform the duties and have the same rights and authorities for the performance of religious service in the burial in such burial ground, or in the consecrated portion thereof, of the remains of parishioners or inhabitants of the parish of which he is such incumbent or minister, and shall be entitled to receive the same fees† in respect of such burials which he has previously enjoyed and received; and the clerk and sexton of such parish or of each of such parishes shall (when necessary) perform and exercise the same duties and functions in respect of the burial of the remains of parishioners or inhabitants of the parish of which he is clerk or sexton in such burial ground or the consecrated portion thereof, and shall be entitled to receive the same fees‡ on such burials, as he has previously performed and exercised and received, as if such burial ground were the burial ground of the respective parish of such incumbent or minister, clerk, and sexton respectively; and the parishioners and inhabitants of such parish or of each of such parishes shall have the same rights of sepulture in such burial ground as they respectively would have had in the burial ground or burial grounds in and for their respective parish, subject nevertheless to the provisions herein contained.

Board may
sell exclusive
rights of
burial
vaults, and
right to
erect monu-
ments.

33. § Any burial board, under such restrictions and conditions as they think proper, may sell the exclusive right of burial,|| either in

habitants of his parish; he is entitled to any ecclesiastical fees which the burial board may collect in respect of such services (*see Hornby v. Toxteth Park Burial Board*, 31 Beav. 52). *Stewart v. West Derby Burial Board*, 34 Ch. D. 314; 56 L. J. Ch. 425; 56 L. T. 380; 35 W. R. 268.

As to the clergyman's duty where deceased was baptised by a layman *see Escott v. Martin*, 4 Moore P. C. C. 104; 6 Jur. 765.

* Burial board must not permit a person to perform burial service in the consecrated part of their cemetery unless he is authorised by the incumbent to do so. *Wood v. Headingley Burial Board* (1892) 1 Q. B. 713; 66 L. T. 90; 40 W. R. 390; 56 J. P. 326; *see also Johnson v. Friend*, 6 Jur. n.s. 280.

† As to who is entitled to burial fees in a new ecclesiastical district which contributes to the establishment of a burial ground for the whole original parish *see cases cited under Section 5, Burial Act, 1857, post.*

A sexton of a chapelry district is not, when the churchyard is closed, entitled to fees in respect of the burial of inhabitants in a burial ground provided under the Burial Acts; but if the chapelry district is afterwards formed into a district parish under 19 and 20 Vict., c. 104, he is entitled to such fees by virtue of Section 5, Burial Act, 1857. *Ormerod v. Blackburn Burial Board*, 28 L. T. 438; 21 W. R. 539; *see also White v. Norwood Burial Board*, 16 Q. B. D. 58; 55 L. J. Q. B. 63; 54 L. T. 81; 34 W. R. 123; 50 J. P. 100.

‡ Parish clerks and sextons are entitled to receive fees in respect of the burial of the parishioners and inhabitants of their parishes in the new burial grounds under the Burial Acts. Burial boards cannot deprive them of such fees by appointing other persons to do their duties. *Gell v. Birmingham*, 10 L. T. 497. *See also Roberts v. Aulton*, 2 H. and N. 432; 26 L. J. Ex. 380.

As to fees *see also Vaughan v. South Metropolitan Cemetery Company*, 1 Johns. and H. 256; 30 L. J. Ch. 265; 7 Jur. n.s. 159; 3 L. T. 727; 9 W. R. 228; and *Bowyer v. South Metropolitan Cemetery Company*, 38 L. T. 271; and *Bowyer v. Stantial*, 3 Ex. D. 315; *Edgell v. Burnaby*, 8 Ex. 788; *Day v. Peacock*, 18 C. B. n.s. 702; 34 L. J. C. P. 225; 12 L. T. 571; 13 W. R. 717.

§ Applies to parishes outside the metropolis; *see 16 and 17 Vict., c. 134, s. 7 (p. 272).*

|| A grant of exclusive right of burial is a grant of an easement arising

perpetuity* or for a limited period, in any part of any burial ground provided by such board, and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period, and also the right of erecting and placing any monument, gravestone, tablet,† or monumental inscription‡ in such burial ground, but there shall be payable to the incumbent or minister of the parish out of the fees or payments to be paid in respect of any rights acquired under this enactment in the consecrated part of such burial ground (in lieu of the fees or sums which he would have been entitled to on the grant of the like rights in the burial ground of his parish) such fees or sums as shall be settled and fixed by the vestry with the approval of the bishop of the diocese, or if no such fees or sums shall have been so settled, then such fees as he would by law or custom have been entitled to on the grant of the like rights in the burial ground of his parish.*

Sec. 33.

34. § Every burial board under this Act shall and may (without prejudice to the fees and payments herein specially provided for) fix and settle and receive such fees and payments in respect of interments in any burial ground provided by such board as they shall think fit, and also the sums to be paid for the exclusive right of burial, either in perpetuity or for a limited period, in any burial ground provided by such board, and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period, and also the right of erecting and placing any monument, gravestone, tablet, or monumental inscription‡ in such burial ground, and every burial board, with the consent of the vestry, may from time to time revise and alter such fees, payments, and sums as aforesaid; and a table showing such fees, payments, and sums, and all other fees and payments in respect of interments in such ground, shall be printed and published, and shall be affixed and at all times continued on some conspicuous part of such burial ground.

Board to fix payments for interments in burial ground and for exclusive right of burial vaults and right to erect monuments.

35. § Where at the time of the discontinuance of interment in any burial ground the fees in respect of burials therein are divided between the incumbent of the parish and the incumbent of any out of land, and should be made by deed. *Bryan v. Whistler*, 2 M. and R. 318; 8 B. and C. 288.

Division of fees between incumbents of parishes and ecclesiastical districts.

* Grant of grave space to grantee and his heirs: Title descends to heirs, and is not vested in all members of grantee's family. *Matthews v. Jeffery*, 6 Q. B. D. 290; 50 L. J. Q. B. 164; 43 L. T. 796; 29 W. R. 282; 45 J. P. 361.

† Power of burial board to prevent ornamentation of private grave, *Ashby v. Harris*, L. R. 3 C. P. 523; 37 L. J. M. C. 164; 18 L. T. 719; 16 W. R. 869.

By purchase of rights under Section 33 the purchaser only gets such rights as the burial board are empowered to sell; such right does not include a right to place a glass shade and wire covering over a grave. *McGough v. Lancaster Burial Board*, 21 Q. B. D. 323; 37 L. J. Q. B. 568; 36 W. R. 822; 52 J. P. 740.

Action is maintainable for obliterating a tombstone. *Spooner v. Brewster*, 10 Moore 494; 3 Bing. 136; 2 C. and P. 34; see also *Hitchcock v. Walter*, 6 D. P. C. 457.

‡ Incumbent has no right to refuse to allow tombstone to be set up in churchyard having as part of the inscription the words "Reverend" and "Wesleyan minister." *Keet v. Smith*, L. R. 1 P. D. 73; 45 L. J. P. C. 10; 33 L. T. 794; 24 W. R. 375 (reversing L. R. 4 Ecc. 398; 44 L. J. Ecc. 70).

§ Applies to parishes outside the metropolis; see 16 and 17 Vict., c. 134, s. 7 (p. 272).

Sec. 35. district parish or other ecclesiastical district, each incumbent shall have the same proportion of the fees in the burial ground to be provided under this Act as he was entitled to in respect of interments in the old burial ground.

Fees payable to churchwardens and others for parochial purposes.

36.* Where fees or any portion of fees payable on interments, or for any monument, gravestone, tablet, or monumental inscription, in the burial ground of any parish for which a burial ground is provided alone or jointly with any other parish or parishes under this Act, are by law or custom payable to the churchwardens of any parish, or to trustees or other persons, for or towards the payment of any annuity or stipend to the incumbent or minister, or any other parochial purpose, or the discharge of any debt or liability, such fees or portion of fees shall be payable in the burial ground to be provided as aforesaid for such parish under this Act, and shall be received by the Burial Board and paid to the parties entitled to receive the same; and where fees or payments have been received on interments, or for any monument, gravestone, tablet, or monumental inscription, in the burial ground of any such parish by any such churchwardens, or by trustees or other persons, for the purpose of discharging any periodical payment or other liability, it shall be lawful for the Burial Board, upon the request of such churchwardens, trustees, or persons, to pay from time to time, out of the fees and moneys received by them on account of such parish, such amount as may be necessary for discharging such periodical payment or liability.

Power to vestry, with consent of bishop, to revise the fees to incumbent, &c., or to substitute a fixed payment.

37.* It shall be lawful for the vestry of any parish from time to time, if they think fit, with the consent of the bishop of the diocese, to revise and vary the fees payable to the incumbent, clerk, and sexton, and other persons and bodies respectively, under the provisions of this Act, or, with such consent as aforesaid, to substitute for the fees payable to such incumbent, clerk, and sexton, and other persons and bodies respectively, a fixed annual sum of such amount as to such vestry may seem just, to be payable by such periodical payments as such vestry may appoint, and in such last-mentioned case the fees which would otherwise be payable under this Act to the incumbent, clerk, and sexton, and such other persons and bodies respectively, shall be paid to the burial board, and such fixed payments as aforesaid shall be paid by such board.

Management to be vested in burial boards.

38.* The general management, regulation, and control of the burial grounds provided under this Act shall, subject to the provisions of this Act and the regulations to be made thereunder, be vested in and exercised by the respective burial boards providing the same; provided that any question which shall arise touching the fitness of any monumental inscription placed in any part of the consecrated portions of such grounds shall be determined by the bishop of the diocese.†

Arrangements between the incumbents of parishes.

39.* Where a burial ground is provided under this Act for the common use of two or more parishes, in case any question arise

* Applies to parishes outside the metropolis; see 16 and 17 Vict., c. 134, s. 7 (p. 272).

† Burial board may remove glass shade and wire covering over a grave. *M'Gough v. Lancaster Burial Board*, 21 Q. B. D. 323; 57 L. J. Q. B. 568; 36 W. R. 822; 52 J. P. 740.

among the incumbents of such parishes as to the performance of the burial service by a chaplain to be paid by means of contributions from such incumbents, or deductions from fees or sums payable to them, or otherwise touching the performance of service in the consecrated part of such ground, the bishop of the diocese shall from time to time confirm any arrangement which a majority, or, in case of equal numbers, one half of the incumbents shall approve, and such arrangement so confirmed shall be binding upon all the parties concerned.

Sec. 39.

40.* The provision of "The Cemeteries Clauses Act, 1847," with respect to the protection of the cemetery, shall be incorporated with this Act, and be applicable to any burial ground provided under this Act.

Certain provisions of 10 & 11 Vict., c. 65, incorporated with this Act.

41.* Any burial board may make such arrangements as they may from time to time think fit for facilitating the conveyance of the bodies of the dead from the parish or the place of death to the burial ground which shall be provided under this Act, or to any other place of burial, subject to the provisions of this Act and the regulations to be made thereunder, and it shall be lawful for any of the aforesaid cemetery companies to undertake any such arrangement, and to carry the same into effect, subject to the provisions and regulations as aforesaid.

Boards may make arrangements for facilitating the conveyance of bodies to burial grounds.

42.* It shall be lawful for any burial board, with the approval of the vestry, and subject to the provisions of this Act, and the regulations to be made thereunder, and for the churchwardens and overseers of the poor of any parish in the metropolis for which a burial board shall not have been appointed under this Act, by the direction of the vestry, and subject as aforesaid, to hire, take on lease, or otherwise to provide fit and proper places in which bodies may be received and taken care of previously to interment, and to make arrangements for the reception and care of the bodies to be deposited therein, and for providing such places such burial boards may exercise the powers vested in them under this Act for providing burial grounds; and such churchwardens and overseers may exercise all such powers as, under the Act of the fifty-ninth year of King George the Third, chapter twelve, or otherwise, the churchwardens and overseers of any parish not having a workhouse might exercise for providing a workhouse for such parish.

Places may be provided for reception of bodies until interment.

43. The provisions hereinbefore contained for the appointment of burial boards shall not apply to any parish within the limits of the City of London and the liberties thereof; but it shall be lawful for the mayor, aldermen, and commons of the said city, in common council assembled, if and when they see fit so to do, to authorise and direct the Commissioners of Sewers of the City of London to exercise for the said city and liberties all the powers and authorities vested in burial boards under this Act; and thereupon such Commissioners shall have and exercise for and on behalf of the said city and liberties all such powers and authorities as are hereby vested in the burial board for any parish, or which might be exercised by such board with the approval of the vestry; but the expenses to be incurred by such Commissioners in providing and laying out any

The Commissioners of Sewers of the City of London to be a burial board for the parishes in the City and its liberties.

* Applies to parishes outside the metropolis; see 16 and 17 Vict., c. 134, s. 7 (p. 272).

Sec. 43. burial ground or burial grounds under this Act, and building the necessary chapel or chapels therein, shall not exceed such sum as the said mayor, aldermen, and commons in common council assembled shall authorise to be expended for this purpose, and the money required for defraying the expenses incurred under this Act by the said Commissioners shall be charged upon and payable out of the consolidated rate authorised to be made by the City of London Sewers Act, 1848, or any moneys applicable for defraying the expenses by the said Act charged upon or payable out of such rate, and the income of any burial ground provided under this Act by such Commissioners, which if such ground had been provided by a burial board for any parish would be applicable in aid of the rate for the relief of the poor of such parish, shall be applicable in aid of the said consolidated rate; and the provisions contained in the City of London Sewers Act, 1848, for the purpose (as therein expressed) of enabling the said Commissioners to effect the purchases therein authorised shall be applicable for the purpose of enabling the said Commissioners to purchase land for the purposes of this Act; and the powers for and auxiliary to the sale and disposal of land given or expressed to be given by the City of London Sewers Act, 1848, and the City of London Sewers Act, 1851, with respect to land purchased by the said Commissioners for any of the purposes mentioned in such last-mentioned Act, and deemed by them unnecessary for such purposes, shall be applicable with respect to any land purchased by the said Commissioners for the purposes of this Act which may not appear to them to be wanted for such purposes; and all the provisions of the said City of London Sewers Acts applicable to the exercise of the powers vested in the said Commissioners shall be applicable to and for the purposes of this Act, as if the powers which under this Act may become vested in such Commissioners had been powers vested in them under the said City of London Sewers Act, 1848: Provided that it shall be lawful for the said mayor, aldermen, and commons to appoint any incumbent or incumbents of any parish or parishes within the said City or liberties to act with the said Commissioners for the purposes of this Act.

Secretary of State may make regulations as to burial grounds, &c.

44.* It shall be lawful for one of Her Majesty's principal Secretaries of State from time to time to make such regulations in relation to the burial grounds and places for the reception of bodies previously to interment which may be provided under this Act as to him may seem proper, for the protection of the public health and the maintenance of public decency, and the burial boards and all other persons having the care of such burial grounds and places for the reception of bodies shall conform to and obey such regulations.

Brompton Cemetery vested in Commissioners of Works.

45. . . . † The rights and obligations of the general board of health with reference to the purchase of the said cemetery ‡ shall, upon the passing of this Act, become transferred to the Commissioners of Works; and in case the said cemetery shall be conveyed to them by virtue of the transfer hereby made of such rights and liabilities, then immediately upon such cemetery being so conveyed † the said cemetery shall, without any further conveyance,

* Applies to parishes outside the metropolis; see 16 and 17 Vict., c. 134, s. 7 (p. 272).

† The cemetery referred to is the Brompton Cemetery.

‡ Words repealed by Statute Law Revision Act, 1892.

become vested in the said Commissioners of Works in the like corporate capacity in which any lands, tenements, or hereditaments are vested in them under the Act of this last session of Parliament, Chapter forty-two, but subject to the rights to graves, vaults, and monuments subject to which such cemetery may have been conveyed to such Commissioners or to the General Board of Health, as the case may be, and subject to the powers and for the purposes hereinafter mentioned.

Sec. 45.

46. (*Section repealed by Statute Law Revision Act, 1892.*)

47. (*Repealed by Statute Law Revision Act, 1875.*)

48. The said Commissioners of Works . . . * shall and may, in case the said Brompton Cemetery be vested in them by or under this Act, sell and dispose of the same or any part thereof, subject to the rights affecting the same, as the Treasury may direct; and in the meantime, until such sale, the Secretary of State may and shall permit the same to be used for the purposes of interment upon such terms and conditions as he shall think fit, and the residue of the moneys arising from the sale and disposal of the said cemetery or any part thereof, and in respect of the interments therein, after defraying the expenses incident to such sale and to the care and management of the cemetery until the whole thereof shall be sold and disposed of, shall be paid to the metropolitan interments repayments account, mentioned in the said Act of the last session of Parliament, to be carried to the said consolidated fund.

Brompton Cemetery may be sold by direction of the Treasury, and in the meantime used for interments.

49.† Where any body is buried in any of the cemeteries mentioned in Schedule (B) to this Act at the expense of any union or parish the fee or sum to be paid or payable on the interment of such body, or otherwise in respect thereof, to the incumbent of the parish or ecclesiastical district from which such body is removed for interment, shall not exceed the sum of one shilling, or where the incumbent now receives in respect of the like burial in the ground of his parish more than one shilling shall not exceed the sum so now received, and in no case shall exceed two shillings and sixpence; and no other fee or sum whatsoever shall be payable in respect of such interment, to or for the use of any person as an officer of such parish or district, or for or on behalf of such parish or district, anything in any Act mentioned in the said schedule (B) or any other Act notwithstanding.

Limiting the compensation fee to be payable on pauper burials in cemeteries.

50.‡ Where under any local Act fees on interment in any burial ground of any parish in the metropolis are payable to the churchwardens of such parish, or to any trustees or other persons, for the purpose of enabling them to pay an annuity or stipend to the incumbent or minister, the fees which under this Act, or any Act relating to any cemetery company, would on the interment in the cemetery of any company of any body brought from such parish be payable to such incumbent or minister, shall be payable to the said churchwardens, trustees, or persons, and any surplus of such fees which may remain in their hands after payment of such annuity or stipend shall be paid to such incumbent or minister.

Incumbents' compensations to be payable to the churchwardens where the fees on burials are now paid to them, and the incumbents are not entitled.

* Words repealed by Statute Law Revision Act, 1892.

† Extended to all cemeteries by 16 and 17 Vict., c. 134, s. 7 (p. 272).

‡ Applies to parishes outside the metropolis; see 16 and 17 Vict., c. 134, s. 7 (p. 272).

Power for incumbent or churchwardens to convey chapel.

51.* Where any burial ground in which interment is discontinued under this Act belongs to any parish other than the parish within which the same is locally situate, it shall be lawful for the incumbent and churchwardens of the parish to which such burial ground belongs, with the consent of the vestry or persons possessing the powers of vestry for ecclesiastical purposes of or in such parish, and of the bishop of the diocese, to convey any chapel belonging to such parish, and situate in or attached to such burial ground and the site thereof, to any persons named by the incumbent and churchwardens of the parish within which the same is situate, with the consent of the vestry or persons possessing the powers of vestry of or in such parish for ecclesiastical purposes, and of the said bishop, and upon such trusts for such last-mentioned parish, and subject to such conditions to be performed on behalf of such parish, and with such provision for the appointment of new trustees as to the said bishop may seem proper, and such conveyance shall be effectual to pass all the estate and interest vested in any persons in trust or in behalf of the parish to which such chapel and the site thereof belong, and after the execution of such conveyance all obligation on such last-mentioned parish, or any trustees or others on behalf thereof, to repair such chapel, or to pay any stipend to the minister thereof, or otherwise in relation to or in connection with such chapel shall cease.

Interpretation of terms.

52.* In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

“Parish” shall mean every place having separate overseers of the poor, and separately maintaining its own poor.

“Ratepayers” shall mean the persons for the time being assessed to and paying rates for the relief of the poor of the parish.

“Incumbent” and “minister” shall, in respect of any fee made payable to an incumbent or minister under this Act, mean the clergyman who would have been entitled to the fee had the body been buried in the churchyard or burial ground of the parish from which it came, or in the burial ground of the ecclesiastical district in case such district has a burial ground at the passing of this Act; and if any difference shall arise between two or more persons severally claiming to be the incumbent or minister under this provision, such difference shall be determined by the bishop of the diocese.

“Churchwardens” shall mean also chapelwardens, or other persons discharging the duties of churchwardens.

“Overseers” shall mean also any persons authorised and required to make and collect or cause to be collected the rate for the relief of the poor of the parish, and acting instead of overseers of the poor.

“Vestry” † shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there

* Applies to parishes outside the metropolis; see 16 and 17 Vict., c. 134, s. 7 (p. 272).

† “Vestry,” Reg. v. Peters, 6 El. and Bl. 226; S. C. nom. *In re Sunderland Burial Ground*, 25 L. J. Q. B. 271; 2 Jur. n.s. 424.

is a select or other vestry . . . * elected under an Act passed in the second year of King William the Fourth, Chapter sixty, "for the better regulation of vestries, and for the appointment of auditors of accounts, in certain parishes of England and Wales," or elected under the provisions of any Local Act of Parliament for the government of any parish by vestries, in which parishes it shall mean such select or other vestry. Sec. 52.

"Clerk" shall mean the clerk appointed pursuant to this Act by any burial board appointed under this Act.

53. For the purposes of this Act, the expression "the metropolis" shall be construed to mean and include the cities and liberties of London and Westminster, the borough of Southwark, and the parishes, precincts, townships, and places mentioned in the Schedule (A) to this Act. Definition of "the metropolis."

54. Provided always, that nothing in this Act contained shall extend to take away, diminish, alter, or prejudice any of the rights, powers, or authorities vested in any of the cemetery companies incorporated under the several Acts mentioned in the said Schedule (B) to this Act, but all such rights, powers, and authorities shall be as good, valid, and effectual as if this Act had not passed. Saving rights of cemetery companies.

SCHEDULE (A).

The City of London and the Liberties thereof, the Inner Temple and Middle Temple, and all other Places and Parts of Places contained within the exterior Boundaries of the Liberties of the City of London.

IN MIDDLESEX.

The City and Liberties of Westminster.

The Parish of St. Margaret and St. John the Evangelist.

The Parish of St. Martin in the Fields.

The Parish of St. George, Hanover Square.

The Parish of St. James.

The Parish of St. Mary-le-Strand, as well within the Liberty of Westminster as within the Duchy Liberty.

The Parish of St. Clement Danes, as well within the Liberty of Westminster as within the Duchy Liberty.

The Parish of St. Paul, Covent Garden.

The Parish of St. Anne, Soho.

Whitehall Gardens (whether the same be parochial or extra-parochial).

Whitehall (whether the same be parochial or extra-parochial).

Richmond Terrace (whether the same be parochial or extra-parochial).

The Close of the Collegiate Church of St. Peter.

The Parishes of St. Giles in the Fields and St. George, Bloomsbury.

The Parishes of St. Andrew, Holborn, and St. George the Martyr.

The Liberty of Hatton Garden, Saffron Hill, and Ely Rents.

The Liberty of the Rolls.

The Parish of St. Pancras.

* Words repealed by Statute Law Revision Act, 1875.

The Parish of St. John, Hampstead.
 The Parish of St. Marylebone.
 The Parish of Paddington.
 The Precinct of the Savoy.
 The Parish of St. Luke.
 The Liberty of Glasshouse Yard.
 The Parish of St. Sepulchre.
 The Parish of St. James, Clerkenwell, including both Districts of
 St. James and St. John.
 The Parish of St. Mary, Islington.
 The Parish of St. Mary, Stoke Newington.
 The Charterhouse.
 The Parish of St. Mary, Whitechapel.
 The Parish of Christchurch, Spitalfields.
 The Parish of St. Leonard, Shoreditch.
 The Liberty of Norton Folgate.
 The Parish of St. John, Hackney.
 The Parish of St. Matthew, Bethnal Green.
 The Hamlet of Mile End Old Town.
 The Hamlet of Mile End New Town.
 The Parish of St. Mary, Stratford, Bow.
 The Parish of Bromley St. Leonard.
 The Parish of All Saints, Poplar.
 The Parish of St. Anne, Limehouse.
 The Hamlet of Ratcliffe.
 The Parish of St. Paul, Shadwell.
 The Parish of St. George in the East.
 The Parish of St. John, Wapping.
 The Liberty of East Smithfield.
 The Precinct of St. Catherine.
 The Liberty of Her Majesty's Tower of London, consisting of—
 The Liberty of the Old Artillery Ground.
 The Parish of Trinity, Minories.
 The Old Tower Precinct.
 The Precinct of the Tower Within.
 The Precinct of Wellclose.
 The Parish of Kensington.
 The Parish of St. Luke, Chelsea.
 The Parish of Fulham.
 The Parish of Hammersmith.
 Lincoln's Inn.
 New Inn.
 Gray's Inn.
 Staple Inn.
 That Part of Furnival's Inn in the County of Middlesex.
 Ely Place.
 The Parish of Willesden.

IN KENT.

The Parish of St. Paul, Deptford.
 The Parish of St. Nicholas, Deptford.
 The Parish of Greenwich.
 The Parish of Woolwich.
 The Parish of Charlton.
 The Parish of Plumstead.

IN SURREY.

The Borough of Southwark.

The Parish of St. George the Martyr.
 The Parish of St. Saviour.
 The Parish of St. John, Horselydown.
 The Parish of St. Olave.
 The Parish of St. Thomas.

The Parish of Battersea (except the Hamlet of Penge).
 The Parish of Bermondsey.
 The Parish of Camberwell.
 The Parish of Clapham.
 The Parish of Lambeth.
 The Parish of Newington.
 The Parish of Putney.
 The Parish of Rotherhithe.
 The Parish of Streatham.
 The Parish of Tooting.
 The Parish of Wandsworth.
 The Parish of Christchurch.
 The Clink Liberty.
 The Hamlet of Hatcham in the Parish of Deptford.

SCHEDULE (B).

The several cemeteries established under the several Acts
 hereinafter mentioned; viz.—

An Act for establishing a general cemetery for the interment of the dead in the neighbourhood of the metropolis: 2 & 3 W. 4, c. 110.

An Act for establishing a cemetery for the interment of the dead southward of the metropolis, to be called the "South Metropolitan Cemetery:" 6 & 7 W. 4, c. 129.

An Act for establishing cemeteries for the interment of the dead, northward, southward, and eastward of the Metropolis, by a company to be called "The London Cemetery Company:" 6 & 7 W. 4, c. 136.

An Act for establishing a cemetery for the interment of the dead westward of the metropolis, by a company to be called "The West of London and Westminster Cemetery Company:" 1 Vict., c. 130.

An Act to establish a general cemetery for the interment of the dead in the parishes of St. Dunstan, Stepney, and Saint Leonard, Bromley, in the County of Middlesex: 4 & 5 Vict., c. 63.

The Victoria Park Cemetery in the parish of Saint Matthew, Bethnal Green, in the County of Middlesex: and

The Abney Park Cemetery in the parish of Saint Mary, Stoke Newington, in the County of Middlesex.

BURIAL ACT, 1853.

16 & 17 VICT., C. 134.

An Act to amend the Laws concerning the Burial of the Dead in England beyond the Limits of the Metropolis, and to amend the Act concerning the Burial of the Dead in the Metropolis.

[20th August, 1853.]

15 & 16 Vict.,
c. 85.

WHEREAS an Act was passed in the last session of Parliament "to amend the laws concerning the burial of the dead in the metropolis," and it is expedient to make better provision for and in relation to burials beyond the limits of the said Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

On representation of Secretary of State, Her Majesty in Council may restrain the opening of new burial grounds, and order discontinuance of burials in specified places.

1. In case it appear to Her Majesty in Council, upon the representation of one of Her Majesty's principal Secretaries of State, that for the protection of the public health the opening of any new burial ground in any city or town, or within any other limits, save with the previous approval of one of such Secretaries of State, should be prohibited, or that burials in any city or town, or within any other limits, or in any burial grounds or places of burial should be wholly discontinued, or should be discontinued subject to any exception or qualification, it shall be lawful for Her Majesty, by and with the advice of her Privy Council, to order that no new burial ground shall be opened in such city or town, or within such limits, without such previous approval, or (as the case may require) that after a time mentioned in the order burials in such city or town, or within such limits, or in such burial grounds or places of burial, shall be discontinued wholly, or subject to any exceptions or qualifications mentioned in such order, and so from time to time as circumstances may require. Provided always, that notice of such representation, and of the time when it shall please Her Majesty to order the same to be taken into consideration by the Privy Council, shall be published in the 'London Gazette,' and shall be affixed on the doors of the churches or chapels of, or on some other conspicuous places within, the parishes affected by such representation, one month before such representation is so considered: Provided also, that no such representation shall be made in relation to the burial ground of any parish until ten days previous notice of the intention to make such representation shall have been given to the incumbent and the vestry clerk or churchwardens of such parish.*

Order not to extend to burial grounds of Quakers or Jews unless expressly included.

2. No such order in Council as aforesaid shall be deemed to extend to any burial ground of the people called Quakers, or of the

* See also 15 and 16 Vict., c. 85, s. 2. As to closing private burial grounds see *Moreland v. Richardson*, 24 Beav. 33; 26 L. J. Ch. 690; 3 Jur. n.s. 1189.

The powers of this section extend to churchyards outside the metropolis established under the Church Building Acts. *Reg. v. Manchester*, 5 El. and Bl. 702; 25 L. J. M. C. 45; 2 Jur. n.s. 182.

persons of the Jewish persuasion, used solely for the burial of the bodies of such people and persons respectively, unless the same be expressly mentioned in such order; and nothing in this Act shall prevent the burial in any such burial ground in which for the time being interment is not required to be discontinued of the bodies of such people and persons respectively; and no such order in Council as aforesaid shall be deemed to extend to any non-parochial burial ground being the property of any private person, unless the same be expressly mentioned in such order.

Sec. 2.

3. It shall not be lawful, after the time mentioned in any such order in Council for the discontinuance of burials, to bury the dead in any church, chapel, churchyard, or burial place, or elsewhere within the parts to which such order extends, or in the burial grounds or places of burial (as the case may be) in which burials have by any such order been ordered to be discontinued, except as in this Act or in such order excepted; and every person who shall, after such time as aforesaid, bury any body, or in any wise act or assist in the burial of any body contrary to this enactment, shall be guilty of a misdemeanor.

Burial not to take place after order in Council for discontinuance.

4. Provided always, that notwithstanding any such order in Council, where by virtue of any faculty legally granted, or by usage or otherwise, there is at the time of the passing of this Act any right of interment in or under any church or chapel affected by such order, or in any vault of any such church or chapel, or of any churchyard or burial ground affected by such order, and where any exclusive right of interment in any such burial ground has been purchased or acquired before the passing of this Act, it shall be lawful for one of Her Majesty's principal Secretaries of State from time to time, on application being made to him, and on being satisfied that the exercise of such right will not be injurious to health, to grant licence for the exercise of such right during such time and subject to such conditions and restrictions as such Secretary of State may think fit, but such licence shall not prejudice or in any wise affect the authority of the ordinary, or of any other person who, if this Act had not been passed, might have prohibited or controlled interment under such right, nor dispense with any consent which would have been required, nor otherwise give to such right any greater force or effect than the same would have had if this Act had not been passed.

Saving of certain rights to bury in vaults, &c.

5. The provisions of this Act shall not extend to authorise the discontinuance of burials, or to prevent the burial of the body of any person, in any cemetery established under the authority of any Act of Parliament,* or in any burial ground or cemetery to be hereafter provided with the approval of one of Her Majesty's principal Secretaries of State, as herein mentioned.

Not to extend to cemeteries established by Act of Parliament or new burial grounds, &c.
New burial grounds not to be opened contrary to order in Council.

6. Where by any such order in Council as aforesaid it is ordered that no new burial ground shall be opened in any city or town, or within any limits therein mentioned, without the previous approval of one of Her Majesty's principal Secretaries of State, no new burial ground or cemetery (parochial or non-parochial) shall be provided and used in such city or town, or within such limits, without such previous approval.

* This does not exclude churchyards established under the Church Building Acts; see note to Section 1.

Certain provisions of Metropolitan Burial Act, 15 & 16 Vict., c. 85, extended to parishes, &c., not in the metropolis.

Any burial board building a chapel for burials according to the rites of the Church of England also to build a chapel for persons not being members of the Church of England.

Register of burials to be kept in every ground provided under 15 & 16 Vict., c. 85, or under this Act. Entries to be evidence.

7. All the provisions contained in the said Act of the last session of Parliament, Chapter eighty-five, "to amend the laws concerning the burial of the dead in the metropolis," from Section ten to Section forty-two (both inclusive) of the said Act, and also in Sections forty-four, fifty, fifty-one, and fifty-two of the said Act, shall extend and be applicable to and in respect of any parish not in the metropolis, and for the purpose of providing a burial ground for any such parish, or otherwise providing for the interment of the bodies of persons who would have had right of interment in the burial ground of any such parish, and generally in relation to every such burial ground to be so provided, and the fees and payments to be received in respect of interment or other rights therein and otherwise, as if such sections were re-enacted in this Act, and the words "in the metropolis," wherever they occur in such sections, or any of them, were omitted; and Section forty-nine of the said Act shall extend to all cemeteries already established and hereafter to be established under the authority of Parliament in like manner as to those mentioned in Schedule (B) to that Act, and as respects the cemeteries to which such section is hereby extended, the same shall also apply in respect of burials at the expense of any hospital or infirmary in like manner as to burials at the expense of a union or parish: Provided always, that in all cases in which any burial board shall provide a new burial ground under the said Act of the last session of Parliament or under this Act, that new burial ground shall be divided into consecrated and unconsecrated parts in such proportions, and the unconsecrated part thereof shall be allotted in such manner and in such portions as may be sanctioned by one of Her Majesty's principal Secretaries of State; and when any burial board shall by virtue of Section thirty of the said Act build on any burial ground provided by such board a chapel for the performance of the Burial Service according to the Rites of the . . . Church of England . . . they shall also build, on the portion of such ground set apart for burials otherwise than according to the rites of the said Church, such chapel accommodation for the performance of burial service by persons not being members of the said Church as may be approved of by one of Her Majesty's Secretaries of State.

8. All burials within any burial ground provided under the said Act of the last session of Parliament or this Act shall be registered in a register book to be provided by the burial board providing such ground (or where the same is provided by the Commissioners of Sewers of the City of London, then by such Commissioners), and kept for that purpose according to the laws in force by which registers are required to be kept by the rectors, vicars, or curates of parishes or ecclesiastical districts in England; and such register book shall be so kept by some officer appointed by the said board or Commissioners to that duty; and in such register books shall be distinguished in what parts of the burial ground, and where the whole of such burial ground is not consecrated for interments according to the rites of the . . . Church of England . . . whether in the portion so consecrated or in the portion not so consecrated the several bodies (the burials of which are entered in such register books) are buried; and in case such burial ground has been provided for more than one parish, such register shall be kept or indexed so as to facilitate searches for entries in such books in respect of bodies from the several parishes; and such register books or copies or extracts therefrom shall be received in all courts as evidence of the burials entered therein, and copies or

transcripts of such register books, verified and signed by such officer as aforesaid, shall be from time to time sent to the registrar of the diocese to be kept with the copies of the other register books of the parishes within such diocese; and the said register books, so far as respects searches to be made therein and copies and extracts to be taken therefrom, shall be subject to the same regulations as are provided by an Act passed in the seventh year of King William the Fourth, intituled "An Act for Registering Births, Deaths, and Marriages in England," so far as such regulations relate to register books of burials kept by any rector, vicar, or curate.

Sec. 8.

9. Nothing in this Act, except the provisions in Sections seven and eight, shall extend to any parish in "the metropolis," as defined by the said Act of the last session, or otherwise affect the provisions of that Act.

Act, except ss. 7 and 8, not to extend to the metropolis.

10. This Act shall not extend to Scotland or Ireland.

Extent of Act.

BURIAL ACT, 1854.

17 & 18 VICT., c. 87.

An Act to make further Provision for the Burial of the Dead in England beyond the Limits of the Metropolis.

[10th August, 1854.]

(Preamble repealed by Statute Law Revision Act, 1892.)

1. In case it appear to Her Majesty in Council, upon the petition of the town council of any borough, stating that an order in Council has been made for closing all or any of the burial grounds of one or more parishes being wholly or partly within such borough that there is difficulty or inconvenience in providing, under the powers of the said Act of the last session of Parliament, requisite places of burial for the inhabitants of such parish or parishes, it shall be lawful for Her Majesty, with the advice of her Privy Council, to order that powers shall be vested in the council of such borough for providing such places of burial under the provisions of this Act: Provided always, that notice of such petition, and of the time when it shall please Her Majesty to order that the same be taken into consideration by the Privy Council, shall be published in the 'London Gazette,' and in one of the newspapers usually circulating in such borough, one month at least before such petition is so considered.

Her Majesty may, by order in Council, invest town councils with the power of providing burial grounds.

2. Upon the making of any such order of Her Majesty in Council as aforesaid in relation to any borough, if the town council of the same shall decide upon providing one or more burial grounds, the said town council shall be a burial board for that purpose, and the provisions of the said Act of the last session, and the provisions of the Act of the fifteenth and sixteenth years of Her Majesty, Chapter eighty-five, in the said Act of the last session mentioned or referred to and thereby extended and made applicable as therein mentioned, except the provisions relating to the constitution, incorporation, meetings, entries of proceedings, and accounts of burial

Upon the making of such order borough council to have all the powers vested in burial boards under 16 & 17 Vict., c. 134.

Sec. 2. boards, shall, subject to the provisions herein contained, extend and be applicable to such borough and the council thereof, and to any burial ground and any places for the reception of the bodies of the dead previously to interment which may be provided by such council under this Act, in like manner as the same are applicable to any parish and the burial board thereof, and to any burial ground and any such places as aforesaid provided by such burial board, save that no approval, sanction, or authorisation of the vestry of any parish shall be requisite.

Expenses to be paid out of borough fund or borough rates.

3. Provided always that all expenses of carrying this Act into execution in any borough shall, subject to the provisions hereinafter contained, be chargeable upon and paid out of the borough fund and borough rates of such borough, or partly out of such fund and partly out of such rates, in like manner as if the same were expenses incurred in carrying into effect the provisions of [an Act of the session holden in the fifth and sixth years of King William the Fourth, Chapter seventy-six*]; and any money to be borrowed under the authority of this Act by the council of such borough, and the interest thereon, shall be charged by such council on the moneys out of which such expenses are by this Act directed to be paid, and the said provisions hereby extended and made applicable to the said council shall be construed accordingly; and any surplus of money raised for defraying such expenses as aforesaid, and of the income of any burial ground provided by the council of any borough, which if the same were provided by a burial board for any parish would be applicable in aid of the rate for the relief of the poor of such parish, shall be applicable in aid of the borough fund or borough rates of such borough, or in case a separate rate has been levied in parts only of such borough, for the purposes of this Act, as hereinafter provided, then such surplus shall be applied rateably towards payment or satisfaction of so much of any borough rate as may be leviable in such parts of such borough: Provided always, that such surplus shall be ascertained upon the auditing of the accounts of the treasurer of such borough in the month of September in any year.

Money may be borrowed at lower rates of interest to pay off securities bearing a higher rate.

4. If any burial board under the said Act of the last session of Parliament, or the council of any borough acting under this Act, can at any time borrow at a lower rate of interest than that secured by any mortgage previously made by them, and then outstanding and in force, they may, if they think fit, so borrow accordingly in order to pay off and discharge any security or securities bearing a higher rate of interest, and to secure the repayment of the money so borrowed, and the interest to be paid thereon, in like manner as other moneys authorised to be borrowed by such burial board or council under the said Act of the last session or this Act.

Power to borrow money to pay off former mortgages.

5. If at the time appointed by any mortgage for payment of the principal money secured thereby any such burial board or council as aforesaid are unable to pay off the same, they may, if they think fit, borrow such sum of money as may be necessary for the purpose of paying off all or any part of such principal money, and secure the repayment of the money so borrowed, and the interest to be paid thereon, in like manner as other moneys authorised to be borrowed by such burial board or council under the said Act of the last session or this Act.

* The Municipal Corporations Act, 1882, is now substituted (see Section 242).

6. The council of any borough shall act in execution and exercise of their duties, powers, and authorities under this Act in like manner as in execution and exercise of their duties, powers, and authorities under the [said* Act of the fifth and sixth years of King William the Fourth]; and every conveyance of lands to be purchased for the purposes of this Act shall be taken in the name of the body corporate of such borough, and such body corporate shall have power to hold such lands for the purposes of this Act; and no lands purchased under this Act by the council of any borough shall be sold, except with the like approbation and subject to the like restrictions as if sold under the said* Act of the fifth and sixth years of King William the Fourth; and the signature of any member or members of such council shall not be necessary to any conveyance of any lands so sold; and a receipt under the hand of the treasurer of such borough shall be a sufficient discharge to the purchaser of any such lands for the purchase-money in such receipt expressed to be received.

Council, how to act under this Act; and conveyances and sales of lands, how to be made.

7. The burial ground or burial grounds provided for any borough under this Act shall be deemed to be provided for such parish or parishes wholly or in part situate in such borough as the town council shall determine.

Burial ground to be deemed to be for the parishes in the borough.

8. It shall be lawful for the council of any borough, if they see fit, in fixing and settling, revising and altering the fees, payments, and sums mentioned in Section thirty-four of the said Act of the fifteenth and sixteenth years of Her Majesty, from time to time to fix all or any of such fees, payments, and sums in respect of interments of the remains of persons, being inhabitants of that part of any parish partly within and partly without the limits of such borough which is without such limits, and in respect of other rights to be exercised with reference to the interment of the remains of such persons, at a higher amount than the ordinary charge for the time being fixed by such council in respect of the like matters: Provided always, that such higher amount shall be fixed with the approval of one of Her Majesty's principal Secretaries of State.

Council may fix a higher rate of payment for interment, &c., in respect of outlying part of any parish partly situate in the borough.

9. Where, previously to the making of any order in Council under this Act in relation to any borough, it appears to Her Majesty in Council, upon the petition of the town council so made as aforesaid, or otherwise, that any parish wholly or in part within such borough is provided with a sufficient burial ground, it shall be lawful for Her Majesty in and by such order to direct that no part of such parish shall be assessed towards defraying the expenses of executing this Act in such borough, and in such case no burial ground provided for such borough under this Act shall be deemed to be provided for such parish; and any money required to be raised in such borough for defraying such expenses, or paying any money borrowed under this Act by the council of such borough, or any interest thereon, by means of a rate to be levied in such borough, shall be raised by a separate rate, to be levied within such parts of such borough as are not exempted under such order from being assessed as aforesaid; and (so far as may be consistent with this provision) the council of such borough shall have all such powers for making and levying such rate, and all provisions shall be applicable in respect thereof, as in the case of a borough rate

Order in Council may except parishes already having burial grounds; and in such case if a rate be necessary, a separate rate to be made on the rest of the borough.

* The Municipal Corporations Act, 1882, is now substituted: see Section 242.

Sec. 9. made under the [said* Act of the fifth and sixth years of King William the Fourth].

Powers of vestry, with consent of bishop, of fixing and revising the fees payable to incumbent, &c., transferred to the borough council.

10. The powers of settling and fixing the fees or sums to be payable to the incumbent or minister, and of revising and varying the fees payable to the incumbent, clerk, and sexton, and other persons and bodies, and of substituting for such fees fixed annual sums, by Sections thirty-three and thirty-seven of the said Act of the fifteenth and sixteenth years of Her Majesty given to the vestry, and exercisable with the approval or consent of the bishop of the diocese, as therein mentioned, shall, with respect to fees and sums arising in or from any burial ground provided under this Act by the council of any borough, be transferred to such council, and be exercisable with the like approval or consent.

Council may appropriate land belonging to the borough.

11. It shall be lawful for the council of any borough to appropriate for the purposes of this Act any land belonging to the body corporate of such borough, or vested in any feoffees, trustees, or others, for the general benefit of the borough or for any specific charity: Provided always, that where any land so appropriated shall be subject to any charitable use such land shall be taken on such conditions only as the Court of Chancery, in the exercise of its jurisdiction over charitable trusts, shall appoint and direct.

12. (*Section repealed by Statute Law Revision Act, 1892.*)

BURIAL ACT, 1855.

18 & 19 VICT., C. 128.

An Act further to amend the Laws concerning the Burial of the Dead in England. [14th August, 1855.]

WHEREAS an Act was passed in the session of Parliament holden in the fifteenth and sixteenth years of Her Majesty (Chapter eighty-five), "to amend the laws concerning the burial of the dead in the metropolis;" and an Act was passed in the session of Parliament holden in the sixteenth and seventeenth years of Her Majesty (Chapter one hundred and thirty-four), "to amend the laws concerning the burial of the dead in England beyond the limits of the metropolis, and to amend the Act concerning the burial of the dead in the metropolis;" and an Act was passed in the last session of Parliament (Chapter eighty-seven), "to make further provisions for the burial of the dead in England beyond the limits of the metropolis;" And whereas it is expedient that further provision should be made for the burial of the dead, and that the said Acts should be amended: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

Orders in Council

1. It shall be lawful for Her Majesty, by and with the advice of her Privy Council, from time to time to postpone the time appointed

* The Municipal Corporations Act, 1882, is now substituted: see Section 242.

by any order in Council for the discontinuance of burials, or otherwise to vary any order in Council made under any of the said recited Acts or this Act (whether the time thereby appointed for the discontinuance of burials thereunder or other operation of such order shall or shall not have arrived) as to Her Majesty, with such advice as aforesaid, may seem fit; and every order of Her Majesty in Council made before the passing of this Act for varying any order previously made under the said Acts or any of them shall be deemed valid and effectual in law.

Sec. 1.

under the recited Acts may be varied by like orders.

2. If any person, after the time mentioned in any order in Council under the said Acts or any of them, or this Act, for the discontinuance of burials, shall knowingly and wilfully bury any body or in any wise act or assist in the burial of any body in any church, chapel, churchyard, burial ground, or place of burial, or (as the case may be) within the limits in which burials have by such orders been ordered to be discontinued, in violation of the provisions of any such order, every person so offending shall, upon summary conviction before two justices of the peace, forfeit a sum not exceeding ten pounds.

Penalty on persons burying contrary to the provisions of orders in Council.

3. The churchwardens or other persons to whom it belongs to convene meetings of the vestry of any parish in which no burial board has been appointed may at any time, at their discretion, without requisition of ratepayers for that purpose, convene a meeting of such vestry for the purpose of determining whether a burial ground shall be provided for the parish;* and where any order in Council has been made before the passing of this Act for discontinuing burials (wholly or subject to any exception or qualification) in any burial ground of any parish for which no burial board has been appointed, or notice has been given of the intention of the Secretary of State to make a representation to Her Majesty in Council that burials should be discontinued (wholly or subject to any exception or qualification) in any burial ground of any parish, the churchwardens or other persons to whom it belongs to convene meetings of vestry shall, with all convenient speed after the passing of this Act, convene a meeting of the vestry for the purpose aforesaid; and where at any time hereafter notice is given of the intention of the Secretary of State to make a like representation in relation to a burial ground of any parish, such churchwardens or other persons as aforesaid shall forthwith convene a meeting of the vestry for the purpose aforesaid; and all the provisions of the said Acts as amended by this Act relating to and consequent upon vestry meetings convened upon such requisition as provided by the first-recited Act shall be applicable to vestry meetings convened under this enactment.

Power to churchwardens to call vestry meetings for providing burial grounds. Where order in Council has been made, or notice given to apply to the Privy Council for closing burial grounds, churchwardens shall call a meeting of vestry.

4. Every vacancy† in any burial board shall be filled up by the vestry appointing the same within one month after such vacancy shall have happened, and immediately on the occurrence thereof the same shall be notified by the burial board to the churchwardens or other persons to whom it belongs to convene meetings of the vestry; and in case any such vestry shall neglect to fill up any such vacancy, the vacancy may be filled up by the burial board at any meeting thereof; and every person to be appointed to supply

Vacancies in burial board to be filled up by vestry within a month.

* See Section 7 Local Government Act, 1894 (*ante*, p. 79).

† See *Reg. v. South Weald*, 5 B. and S. 391; 33 L. J. M. C. 193; 10 L. T. 498; 12 W. R. 873.

Sec. 4. any such vacancy shall be a ratepayer of the parish for which the burial board is appointed; and every such board may act for any purpose, notwithstanding any vacancies therein.

5. (Repealed by Statute Law Revision Act, 1875.)

Sanction of vestry not required for expenditure and other acts of burial board in certain cases.

6. If the vestry of any parish shall refuse or neglect to authorise the expenditure of such sums as the burial board of such parish shall have declared to be necessary for providing and laying out a burial ground and building the necessary chapel or chapels therein, it shall be lawful for such burial board to represent such refusal or neglect to one of Her Majesty's principal Secretaries of State; and in case it shall appear to the Secretary of State, after inquiry into the circumstances of the case, that the burial board are unable to provide such burial ground, or to proceed effectually in the execution of their duties, by reason of such refusal or neglect, it shall be lawful for such Secretary of State, by warrant under his hand, to authorise such burial board, without further authority, sanction, or approval of or by such vestry, to expend such sums of money for providing and laying out a burial ground, and building the necessary chapel or chapels thereon, and to borrow and charge such money for all or any of such purposes, and to enter into and make such contracts and purchases, and do such other acts as under the Sections nineteen, twenty, twenty-six, and forty-two of the said Act of the fifteenth and sixteenth years of Her Majesty might have been expended, borrowed, and charged, entered into, made, and done with the authority, approval, and sanction of such vestry, subject, nevertheless, to such limitation of amount or other limitation or restriction as such Secretary of State may by his warrant prescribe; and all acts done in pursuance of such warrant shall be as valid and effectual as if the authority, approval, and sanction of such vestry had in every case been obtained.

Fees, &c., to be subject to the approval of Secretary of State.

7. All such fees, payments, and sums as may be fixed, settled, and received by any burial board under Section thirty-four of the said Act of the fifteenth and sixteenth years of Her Majesty shall be so fixed and settled, subject to the approval of one of Her Majesty's principal Secretaries of State; and no such fees, payments, or sums shall be altered or varied without such approval.

Secretary of State may direct inspection of burial grounds.

8. It shall be lawful for one of Her Majesty's principal Secretaries of State from time to time to appoint and authorise any person to inspect any burial ground or cemetery, parochial or non-parochial, or place for the reception of bodies, to ascertain the state and condition thereof, and where regulations in relation thereto have been made or may be made by the Secretary of State under the said Acts or any of them, to ascertain whether such regulations have been observed and complied with; and if any person having the care of any such burial ground or cemetery or other place shall obstruct any person so authorised to inspect the same, or if any person having the care of any burial ground or place for the reception of bodies subject to such regulations as aforesaid shall violate or neglect or fail to observe and comply with any such regulation, or any regulation imposed by this Act, every person so offending shall, upon summary conviction thereof before two justices, forfeit and pay a sum not exceeding ten pounds.

Penalty for obstructing inspector or violating regulations.

9. So much of the said Act of the fifteenth and sixteenth years of Her Majesty as enacts that "no ground (not already used as or appropriated for a cemetery) shall be appropriated as a burial ground or as an addition to a burial ground under that Act nearer than two hundred yards to any dwelling-house * without the consent in writing of the owner, lessee, and occupier of such dwelling-house" shall be repealed; but no ground not already used as or appropriated for a cemetery shall be used for burials under the said Act or this Act, or either of them, within the distance of one hundred yards from any dwelling-house, without such consent as aforesaid.

Part of Section 25 of 15 & 16 Vict., c. 85, repealed.

Burial ground not to be within 100 yards of a dwelling-house.

10. If the ratepayers assembled at any vestry† duly convened under the provisions of this Act shall, in pursuance of public notice duly given in that behalf, resolve unanimously that any new burial ground to be provided for their parish, under the provisions of this Act, shall be held and used in like manner and subject to the same laws and regulations in all respects as the existing burial ground or churchyard of the said parish, the land for such new burial ground may be conveyed and settled in accordance with such resolution; anything in this or the said recited Acts notwithstanding, and in such case it shall not be necessary to set apart to remain unconsecrated any portion of the land so conveyed and settled: Provided always, that if at any time within ten years thereafter the vestry,† duly convened under the provisions of this Act in pursuance of public notice duly given in that behalf, should determine that an unconsecrated burial ground should be also provided for such parish, all the powers and provisions of the said recited Acts and this Act may be put in force and may be applicable for providing such unconsecrated burial ground separately, in like manner as they might have been put in force and been applicable for providing an ordinary burial ground for such parish.

If ratepayers resolve, land for new burial ground may be conveyed and settled as old burial ground.

11. Where a parish or place has been united with any other parish or place, parishes or places, for all or any ecclesiastical purposes, or where two or more parishes or places have heretofore had a church or a burial ground for their joint use, or where the inhabitants of several parishes or places have been accustomed to meet in one vestry for purposes common to such several parishes or places, it shall be lawful for the vestry or any meeting in the nature of a vestry of such several parishes or places in any of the cases aforesaid, and whether any one or more of such parishes or places do or do not separately maintain its own poor, to appoint a burial board, and from time to time to supply vacancies therein, and to exercise the same powers of authorisation, approval, and sanction in relation to such burial board, and such other powers as under the said Acts and this Act are vested in the vestry of a parish or place separately maintaining its own poor; and the burial board so appointed shall have all the powers ‡ for providing

How burial grounds are to be provided for united parishes.

* Dwelling-house does not include the curtilage. The specified distance must be measured from the walls of the dwelling-house. *Wright v. Wallasey Local Board*, 18 Q. B. D. 783; 56 L. J. Q. B. 259; 52 J. P. 4.

The section applies to private as well as public burial grounds. *Greenwood v. Wadsworth*, 16 L. R. Eq. 288; 43 L. J. Ch. 78; 29 L. T. 88; 21 W. R. 722; see also *Cowley v. Byas*, 5 Ch. D. 944; 37 L. T. 238; 26 W. R. 1.

† See Section 7 Local Government Act, 1894 (*ante*, p. 79).

‡ Section 9 of 20 and 21 Vict., c. 81, amends the above section, and

Sec. 11. a burial ground for the common use of such several parishes or places, and for facilitating interments, and otherwise, as if such several parishes or places had been a parish separately maintaining its own poor; and the expenses of the burial board appointed under this provision shall be borne by the several parishes or places for which such board is appointed, and shall be apportioned among them by such burial board in proportion to the value of the property in such several parishes or places as rated to the relief of the poor; and the sums required by the burial board in respect of the portion of such expenses to be borne by any such parish or place shall be paid out of the rates for the relief of the poor in such parish or place, in like manner as if such burial board had been appointed for such parish or place alone.*

Burial boards may be appointed for township, &c. (not separately maintaining their own poor), which have had separate burial grounds.

12. The vestry† or meeting in the nature of a vestry of any parish, township, or other district not separately maintaining its own poor, which has heretofore had a separate burial ground, may appoint a burial board, and from time to time supply vacancies therein, and may exercise the same powers of authorisation, approval, and sanction in relation to such burial board, and such other powers as under the said Acts and this Act are vested in the vestry of a parish separately maintaining its own poor; and the burial board so appointed shall have all the powers for providing a burial ground and otherwise as if such parish, township, or other district had been a parish separately maintaining its own poor.‡

Provision for expenses of burial boards of places not separately maintaining their own poor.

13. Where any district (whether a parish or township or other subdivision) not separately maintaining its own poor, but forming part of a parish maintaining its own poor, or of an incorporation or other union maintaining the poor of the places comprised therein, by means of a common rate, shall have a burial board, or shall form part of a place or union of places not co-extensive with the area rated for the relief of the poor, and having one burial board, it shall be lawful for such respective burial board to issue their certificate to the overseers of such parish, or the overseers or other persons authorised to make and collect or cause to be collected such common rate (as the case may be), for payment of the sums required for the expenses of such burial board, or, where such district not separately maintaining its own poor forms part only of the area of the burial board, of the sums required in respect of the portion of such expenses to be borne by such district, in like manner as if such district had been a parish separately maintaining its own poor, and such overseers or persons authorised as aforesaid had been the overseers thereof; and such overseers or persons shall pay such sums as shall be required by such certificate, according to

requires that the powers of a vestry to appoint a burial board in certain cases shall not be used without the approval of the Secretary of State.

* See *Reg. v. Wright*, 8 Jur. n.s. 260; 5 L. T. 345; 10 W. R. 86; *Reg. v. Coleshill*, 2 B. and S. 825; 31 L. J. M. C. 219; 9 Jur. n.s. 226; 7 L. T. 244. Affirmed by Ex. Ch. 34 L. J. Q. B. 96.

† See Section 7 Local Government Act, 1894 (*ante*, p. 79).

‡ Formation of burial board in an ecclesiastical district where a board already exists for the whole parish, *Reg. v. Tonbridge*, 13 Q. B. D. 339; 53 L. J. Q. B. 488; 51 L. T. 179; 33 W. R. 24; 48 J. P. 740; see also *Viner v. Tunbridge*, 2 El. and Bl. 9; 28 L. J. M. C. 251; 5 Jur. n.s. 1293; and *Reg. v. Walcot St. Swithin*, 2 B. and S. 571; 31 L. J. M. C. 221; 10 W. R. 602.

the directions of such burial board, and shall levy such sums as may be required for such payments to the burial board by an addition to the parish rate or common rate, so far as the same affects the district in respect of which such payments are required, or by separate rates to be made from time to time on such district; and for levying such additions or separate rates as aforesaid, such overseers or other persons shall have the powers, remedies, and privileges, and proceed in the same manner, as in the case of the rates for the relief of the poor: Provided that any such rates may (notwithstanding any restriction in relation to the parish rate or common rate) be made and levied at such times as may be necessary to provide for the paymants aforesaid.

Sec. 13.

14. And whereas doubts have arisen whether in all cases in which any burial board shall build in any burial ground provided by such board a chapel for the burial service according to the rites of the united Church of England and Ireland, such burial board is not also bound by law to build a chapel or chapels upon the unconsecrated part of such burial ground for the performance of burial service for persons not being members of the said Church: Be it enacted, that in any such case as aforesaid, where it shall appear to one of Her Majesty's principal Secretaries of State, upon the representation of a majority of the vestry of any parish, consisting of not less than three fourths of the members of the same, that the building of a chapel upon the unconsecrated part of any such burial ground for the use of persons not being members of the said Church is undesirable and unnecessary, it shall be lawful for the said Secretary of State, if he shall think fit, to signify his opinion to that effect to the burial board of the parish, and the said burial board shall thereupon be relieved from all obligation to build the same: Provided always, that such Secretary of State shall not signify his opinion as aforesaid unless it be shown to his satisfaction that notice of the intention to propose to such vestry to make such representation was given in manner required by law for notices of vestry meetings, and of the special purposes thereof.

No obligation to build a chapel for persons not members of the Church of England when Secretary of State, upon representation of three fourths of vestry, declares it unnecessary.

15. No land already or to be hereafter purchased or acquired, under the provisions of any of the Acts hereinbefore recited, for the purpose of a burial ground (with or without any building erected or to be erected thereon), shall while used for such purposes be assessed* to any county, parochial, or other local rates at a higher value or more improved rent than the value or rent at which the same was assessed at the time of such purchase or acquisition.

Assessment to local rates not to be increased after purchases for the purposes of this or any former Act.

16. That in any case where the burial boards appointed under the said recited Acts of the fifteenth and sixteenth and the sixteenth and seventeenth years of Her Majesty, or either of them, for any two parishes, shall provide separate burial grounds for such parishes respectively, and such burial grounds shall adjoin each other, it shall be lawful for the said burial boards to concur in building, either on one of the said burial grounds or partly on one of such grounds and partly on the other, such chapels as are authorised to be built by the said Acts, and that such chapels when erected shall be used in common by both of such parishes, and be deemed and taken to be the chapels of and belonging to each of

Separate burial boards whose burial grounds adjoin may contract with each other for specific purposes.

* See Reg. v. Abney Park Cemetery Company, 8 L. R. Q. B. 515; 42 L. J. M. C. 124; 29 L. T. 174.

Sec. 16. such burial grounds respectively in such manner, consistent with the provisions of the said Acts or either of them, as the said burial boards shall mutually agree upon; and that the said burial boards may agree as to the proportions in which the expenses of erecting such chapel accommodation shall be borne by each of the said boards respectively; and the proportion for each of such parishes of such expenses shall be chargeable upon and paid in the same manner as the costs of providing burial grounds under the said Acts; and where any burial board shall provide a burial ground, and cause chapels to be built thereon, pursuant to the said recited Acts, it shall be lawful for such burial board, with the sanction of one of Her Majesty's principal Secretaries of State, to contract with any other burial board whose burial ground shall adjoin the one on which such chapels shall so have been built, for the use of such chapels, in such manner and on such terms as such respective burial boards shall mutually agree, and that during the existence of any such agreement such chapels shall be deemed and taken to be the chapels of and belonging to each of such burial grounds respectively.

Burial board may let land not required for burials.

17. It shall be lawful for any burial board, with the sanction of one of Her Majesty's principal Secretaries of State, and subject to regulations approved of by him, to let any land purchased by and vested in them under this Act or any of the Acts hereinbefore recited, and which has not been consecrated, and in which no body has been at any time interred, and which is not for the time being required for the purposes of a burial ground, in such manner and on such terms as such board may see fit, but so nevertheless that power shall be reserved to such board to resume any such land which may be required for the purposes aforesaid, upon giving six months' notice.

Burial board to keep in order closed burial grounds, &c.

18. In every case in which any order in Council has been or shall hereafter be issued for the discontinuance of burials in any churchyard or burial ground, the burial board or churchwardens,* as the case may be, shall maintain such churchyard† or burial ground of any parish in decent order, and also do the necessary repair of the walls and other fences thereof, and the costs and expenses shall be repaid by the overseers, upon the certificate of the burial board or churchwardens, as the case may be, out of the rate made for the relief of the poor of the parish or place in which such churchyard or burial ground is situate, unless there shall be some other fund legally chargeable with such costs and expenses.

* See Section 6 (1)(b) of Local Government Act, 1894.

† The churchwardens, not burial board, must keep closed churchyard in order. *Reg. v. Bishop Wearmouth Burial Board*, 5 Q. B. D. 67.

By the Disused Burial Grounds Act, 1884, as explained by the Open Spaces Act, 1887, it is unlawful to build on a disused burial ground. This prohibition applies to land set apart for interment although no interment has taken place. *In re Ponsford and the Newport School Board*, (1894) W. N. 12; 10 T. L. R. 207; (1894) 1 Ch. 454.

Injunction granted to restrain vestry from building band stand in a disused burial ground. *A. G. v. St. Pancras*, 'Times,' 9th August, 1893.

As to application of consecrated ground for secular purposes see *Reg. v. Twiss*, L. R. 4 Q. B. 407; 38 L. J. Q. B. 228; 20 L. T. 522; 17 W. R. 765; 10 B. and S. 298.

Section 18 applies to parochial not private burial grounds. *Reg. v.*

19. Nothing in this Act contained shall in any wise abridge, lessen, or defeat any power, right, or privilege of any local board of health being the burial board of a borough created or to exist under or by virtue of any local Act of Parliament. Act not to abridge powers of local boards of health, &c.

20. Any local board of health acting as or created a board under or by virtue of the powers of any local Act of Parliament shall and may have and exercise all the powers, rights, and privileges which by this Act or by the secondly recited Act are or can or may be had, enjoyed, or exercised by any burial board therein named. Local boards of health to exercise powers of this Act.

21. The said Acts of the fifteenth and sixteenth, sixteenth and seventeenth, and seventeenth and eighteenth years of Her Majesty and this Act shall be read and construed together as one Act. Acts to be construed together.

BURIAL ACT, 1857.

20 & 21 VICT., C. 81.

An Act to amend the Burial Acts.

[25th August, 1857.]

(*Preamble repealed by Statute Law Revision Act, 1892.*)

1. All Acts authorised to be done by any burial board, with the approval, sanction, or authority of the vestry or vestries of the parish or parishes for which such board is constituted, may, where a joint burial board is constituted for more than two parishes, be done with the approval, sanction, or authority (as the case may require) of the vestries of the majority of such parishes. Approval of a majority of vestries of parishes sufficient for acts done by burial boards acting for more than two parishes. Joint burial boards may be dissolved.

2. Where the vestries of two or more parishes have agreed to provide one burial ground for the common use of such parishes, such vestries may at any time before such burial ground has been provided, determine the union between such parishes under such agreement, and upon such union being so determined all the provisions of the said Acts and this Act shall be applicable with regard to such parishes and the respective burial boards thereof as if such union had not been formed, save that any expenses already properly incurred by the joint burial board for such parishes shall be defrayed as provided by the said Acts.

St. John, Westgate, and Elswick Burial Board (2 B. and S. 703; 31 L. J. Q. B. 205; 6 L. T. 504; 10 W. R. 606).

Appropriation of closed churchyard as a public garden. *In re St. George in the East*, L. R. 1; P. D. 311.

Faculty granted to build mortuary and post-mortem room in a churchyard. *Hansard v. St. Matthew, Bethnal Green*, L. R. 4 P. D. 46.

Faculty granted to erect school on portion of closed churchyard. *In re Bettison*, L. R. 4 Ecc. 294.

As to payment by churchwardens of expenses of maintaining closed churchyards, *Reg. v. Islington*, 25 Q. B. D. 523; 59 L. J. Q. B. 462; 63 L. T. 226; 39 W. R. 10; 54 J. P. 807.

Burial boards may provide more than one burial ground.

3. Any burial board may, if they see fit, with the approval of one of Her Majesty's principal Secretaries of State, provide more than one burial ground, and may, if they see fit, with such approval instead of setting apart a portion of any burial ground for the purpose of such portion being used as unconsecrated ground, provide separate and distinct grounds to be used respectively as consecrated and unconsecrated burial grounds: Where before the passing of this Act any burial board has provided more than one burial ground, or has (instead of setting apart a portion of any burial ground for the purpose of being used as unconsecrated ground) provided separate and distinct grounds as consecrated and unconsecrated burial grounds, such burial board shall be deemed to have acted lawfully and in accordance with the said Acts.

Local Board of Health may, by order in Council, be constituted a burial board.

4. In case it appear to Her Majesty in Council, upon the petition of the Local Board of Health of any district established under the Public Health Act, or upon the petition of any commissioners elected by the ratepayers, and acting under or by virtue of the powers of any local Act of Parliament for the improvement of any town, parish, or borough, stating that the district of such local board of health or of such commissioners is co-extensive with a district for which it is proposed to provide a burial ground, and that no burial board has been appointed for such district, and that an order in Council has been made for closing all or any of the burial grounds within the said district, it shall be lawful for Her Majesty, with the advice of Her Privy Council, in case Her Majesty see fit so to do, to order that such local board shall be a burial* board for the district of such local board, or that such commissioners shall be a burial board for the district of such commissioners, and thereupon such local board or such commissioners, as the case may be, shall be a burial board for such district accordingly; and the powers and provisions of the Acts hereinbefore mentioned (except the provisions relating to the constitution or appointment and resignation of members of burial boards), and the provisions herein contained shall extend to the district of such board, and to such board, or to the district of such commissioners, and to such commissioners, and to any burial ground and places for the reception of the bodies of the dead previously to interment which may be provided by such board or by such commissioners, in like manner as to any parish or parishes and the burial board thereof, and any burial ground and any such places as aforesaid provided by such last-mentioned board, save that no approval, sanction, or authorisation of any vestry shall be requisite: Provided always, that notice of such petition, and of the time when it shall please Her Majesty to order the same to be taken into consideration by the privy council, shall be published in the 'London Gazette,' and in one of the newspapers usually circulating in the district of such local board or of such commissioners, one month at least before such petition is so considered: Provided also, that this enactment shall not apply to any such district as aforesaid exclusively consisting of the whole or part of one corporate borough within the meaning of the Public Health Act, 1848.

Burial board may be established for a district not main-

5. The vestry, or meeting in the nature of a vestry, of any parish,† new parish, township, or other district not separately maintaining its own poor, and which has had no separate burial ground, may

* See Public Health Act, 1875, Sched. V, Part III.

† See Section 7 Local Government Act, 1894 (*ante*, p. 79).

appoint a burial board; and such vestry or meeting, and the burial board appointed by it, shall exercise and have all the powers which they might have exercised and had under the said Acts and this Act if such parish, new parish, township, or district had had a separate burial ground before the passing of the said Act of the eighteenth and nineteenth years of Her Majesty; Provided always, that all the powers of any other vestry or meeting and burial board, if any, shall then cease and determine, so far as relates to such parish, new parish, township, or district as aforesaid; and until a burial ground shall be so provided as aforesaid and consecrated for any new parish* or district created or to be created pursuant to the provisions of the sixth and seventh Victoria, Chapter thirty-seven, the seventh and eighth Victoria, Chapter ninety-four, and the nineteenth and twentieth Victoria, Chapter one hundred and four, or any or either of them, and to which the said Acts or any or either of them may apply, the incumbent of such new parish or district (if any burial ground has been or shall be provided under the herein recited Acts for the burial of the dead, or any or either of them, for any parish or parishes out of rates to which such new parish or district, or any part thereof, shall have contributed or contribute or be liable), shall, with respect to the burial in such last-mentioned burial ground of the remains of the parishioners or inhabitants of such new parish or district, or of such part thereof as shall have contributed or contribute as aforesaid, as the case may be, perform the same duties, and have the same rights, privileges, and authorities, and be entitled to the same fees, and also the clerk and sexton† of such new parish or district shall, when

Sec. 5.

taining its own poor, and which has had no separate burial ground.

* A new church was built and part of the old parish assigned as its district. The new district had no burial ground in it. Afterwards a burial ground for the whole parish was provided, to cost of which the new district contributed. Held that the district was a new parish, and that its incumbent was entitled to the burial fees in respect of inhabitants buried within the parish, after the first avoidance of the rectory of the original parish. *Cronshaw v. Wigan Burial Board*, L. R. 8 Q. B. 217; 42 L. J. Q. B. 137; 28 L. T. 283; see also *Roberts v. Aulton*, 2 H. and N. 432; 26 L. J. Ex. 380.

Another case raising a question as to who was entitled to fees, and illustrating the meaning of "new parish" in the above Section 5, is *Harris v. Lambeth Burial Board*, 47 J. P. 501.

† As to sexton's fees see *Ormerod v. Blackburn Burial Board*, noted ante under Section 32, Burial Act, 1852.

Where a parish has been divided into separate parishes for ecclesiastical purposes under 58 Geo. III, c. 45, and the vestry of the old parish collectively has appointed a burial board and established one burial ground for the whole parish, the vestry of one of the new parishes may also appoint a burial board under 20 and 21 Vict., c. 81, s. 5. *Reg. v. Walcot, St. Swithin*, 2 B. and S. 571; 31 L. J. M. C. 221; 10 W. R. 602.

Burial of the dead is an "ecclesiastical purpose." Where a district which has a burial ground becomes by operation of Section 14 of 19 and 20 Vict., c. 104, a separate and distinct parish for ecclesiastical purposes, the inhabitants of such new parish cease to have any right of burial in the burial ground of the old parish. *Hughes v. Lloyd*, 22 Q. B. D. 157; 58 L. J. Q. B. 122; 60 L. T. 675; 37 W. R. 381; 53 J. P. 310.

But where a parish is divided for civil purposes only (*e.g.* by the Local Government Act, 1894, Section 1, or the Divided Parishes Acts) and not for ecclesiastical purposes, it would seem that the inhabitants of the new parish still have a right to use the burial ground of the old parish. So when part of one parish is annexed to another the inhabitants of the part annexed retain the right of sepulture in the burial

Sec. 5. necessary, respectively perform the same duties and be entitled to the same fees in respect of such burials as if the said burial ground were exclusively the burial ground of such new parish or district, subject nevertheless to all provisions to which the incumbents, clerks, and sextons of original parishes are respectively subject in and by the said Burial Acts, or any or either of them : Provided also, that nothing herein contained shall affect the rights or privileges of any existing incumbent, clerk, or sexton without the consent of such incumbent, clerk, or sexton respectively.

Ordinary of diocese may consecrate the whole or part of land belonging to any parish for the burial of poor persons.

6. Where the guardians of any parish or union are or shall hereafter become possessed of any land suitable to the purposes of a burial ground, and the poor law board shall consent to the same being appropriated to the reception of the dead bodies of any poor persons whom such guardians shall be authorised or required by law to bury, it shall be lawful for the ordinary of the diocese wherein such land shall be situated, if he see fit, to consecrate the whole or a part of such land for burial purposes, and after consecration the guardians may lawfully direct any such dead body as aforesaid to be buried therein ; and the land so consecrated shall not thenceforth be used for any other purposes than for burials according to the rites of the united Church of England and Ireland, and shall be kept in decent order ; and the fences thereof, and any building or other erection therein or adjoining thereto used for the performance of the burial service, shall be maintained in good repair by the guardians, out of the common fund of such parish or union : Provided nevertheless, that the guardians shall not be authorised to direct the body of any poor person to be buried in such grounds who, or whose husband, wife, or next of kin, shall, by letter addressed to the master of the workhouse or otherwise, have expressly desired burial to take place elsewhere.

Provision for transfer to a burial board of a burial ground provided under Church Building Acts.

7. Where a burial ground has been provided for any parish under any of the Acts commonly referred to or known as the Church Building Acts, and the same has been consecrated, and any money expended in providing such burial ground has been borrowed on the security of the church rates, it shall be lawful for the incumbent of the parish, with the consent of the ordinary and the burial board of such parish, or of any borough or district in which such parish is wholly or in part comprised, by instrument in writing under the hands and seals of such incumbent and ordinary, and under the seal of the said burial board, to declare that, in consideration of the payment of the debt by the said burial board, or of such sum as shall be mutually agreed upon, with the consent of the persons signified in writing under their hands to whom two thirds of such debt is due, the said burial ground shall be vested in and be under the care and management of such burial board, and thereupon the same shall be vested in and be under the care and management of such board, and shall be subject to the provisions of the hereinbefore recited Acts and this Act applicable to a consecrated burial ground or the consecrated part of any burial ground provided by any burial board ; and any money borrowed as aforesaid, and remaining owing, and the interest due and to become due thereon, and all costs and expenses occasioned by the non-payment

ground of the parish from which they were detached, and do not acquire the right in that to which the part is added.

thereof, or incurred in providing such burial ground, and then remaining unpaid, shall be charged on and paid out of such rates or fund as under the said last-mentioned Acts and this Act would be chargeable with the expense of providing a burial ground by such board, and such declaration as aforesaid shall be registered in the registry of the diocese; and such board may, with the approval of the vestry, enlarge such burial ground by the addition of ground to be used for burials otherwise than according to the rites of the Church of England, and to be used subject to the provisions of the Acts herein recited and of this Act in respect to the unconsecrated portions of burial grounds.

Sec. 7.

8. It shall and may be lawful for the vestry of any parish in which any burial ground closed by order in Council may be situate, and which does not belong to such parish, by resolution of the vestry at a meeting called for that purpose, to purchase such burial ground, and from the time of such purchase such burial ground shall belong to such parish, and be subject to all the conditions affecting the burial grounds of the parish in which the same is situate.

Vestry of parish in which burial ground is closed may purchase such burial ground if not belonging to parish.

9. And whereas by the said Act of the eighteenth and nineteenth years of Her Majesty, Chapter one hundred and twenty-eight,* it is enacted that where a parish or place has been united with any other parish or place, parishes or places, for all or any ecclesiastical purposes, or where two or more parishes or places have heretofore had a church or a burial ground for their joint use, or where the inhabitants of several parishes or places have been accustomed to meet in one vestry for purposes common to such several parishes or places, it shall be lawful for the vestry, or any meeting in the nature of a vestry, of such several parishes or places, in any of the cases aforesaid, and whether any one or more of such parishes or places do or do not separately maintain its own poor, to appoint a burial board, and from time to time to supply vacancies therein, and to exercise the same powers of authorisation, approval, and sanction in relation to such burial board, and such other powers as, under the Acts therein recited and that Act, are vested in the vestry of a parish or place separately maintaining its own poor: Where any of the several parishes or places under the circumstances provided for in the said enactment separately maintains its own poor, or has a separate burial ground, it shall not be lawful for the vestry, or meeting in the nature of a vestry, of such several parishes or places, to appoint a burial board under the said enactment without the approval of one of Her Majesty's principal Secretaries of State; and in case it appear to the Secretary of State that any such parish or place has a sufficient burial ground, or that otherwise it would not be expedient that the powers given by the said enactment should be exercised in relation to such parish or place, the Secretary of State may direct that such parish or place shall be exempted from the operation of the said enactment, and thereupon the same shall be exempted accordingly; and the inhabitants of the remaining parish or parishes, place or places, may assemble in vestry, or in a meeting in the nature of a vestry, from time to time, and in such vestry or meeting may proceed in like manner under the said Acts and this Act in all respects as if the inhabitants of such last-mentioned parish or parishes, place or places, exclusively had a

Burial boards not to be appointed for united parishes, &c., in cases provided for by 18 & 19 Vict., c. 128, without consent of Secretary of State where one of the places separately maintains its own poor or has a burial ground.

* By Section 11 of that Act (p. 279).

Sec. 9. vestry for their common purposes, and were wholly unconnected with the parish or place so excepted.

Orders in Council may be made for regulating burial grounds, &c.

10. It shall be lawful for Her Majesty, by order made by and with the advice of Her Privy Council, on the representation of one of Her Majesty's principal Secretaries of State, from time to time to establish such regulations as to Her Majesty may seem proper for the protection of the public health, and for the maintenance of public decency, in respect of all burials in common graves in any cemeteries named in Schedule (B.) to the Act fifteenth and sixteenth Victoria, Chapter eighty-five, and in respect of the like burials in any cemetery established under the authority of any local Act of Parliament; and every such order in Council shall be published in the 'London Gazette'; and all persons having the care of such cemeteries and burial grounds and places shall conform to and obey such regulations; and any such person who shall violate or wilfully neglect to observe any of such regulations shall, on summary conviction thereof before two justices of the peace, forfeit and pay any sum not exceeding ten pounds: Provided always, that no such representation shall be made in relation to any cemetery or burial ground until ten days' previous notice in writing of the intention to make such representation shall have been given to the person or one of the persons having the control or care of such cemetery or burial ground.

No wall or fence required between the consecrated and unconsecrated portions of burial ground. Boundary marks to be provided.

11. It shall not be necessary to erect or maintain any wall or fence between the consecrated and the unconsecrated portions of any burial ground provided under the hereinbefore recited Acts and this Act, or any of them: Provided always, that in the case of any burial ground where there shall be no such wall or fence, it shall be the duty of the burial board having the care of such burial ground to place, and from time to time to repair and renew, such boundary marks of stone or iron as may be sufficient to show the boundaries of such consecrated and unconsecrated portions respectively.

Appeal.

12. If, upon the application in writing by any burial board to the bishop of the diocese for the consecration of a burial ground, declared in such writing to be in a fit and proper condition for the purpose of interment according to the rites of the . . . * Church of England . . . * which application the board is required to make as soon as such ground is in such fit and proper condition, the said bishop shall refuse to consecrate the same, it shall be lawful for such burial board to appeal from such refusal to the archbishop of the province, who shall decide the matter in dispute; and if the said archbishop shall decide that the said burial ground is not in a fit and proper condition as aforesaid, then the board shall be bound to put the said ground in a fit and proper condition; and if the said archbishop shall decide that the said burial ground is in a fit and proper condition as aforesaid and ought to be consecrated, such decision shall be communicated in writing by the archbishop to the bishop aforesaid; and if after such communication the said bishop shall not within one calendar month consecrate the said burial ground, the said archbishop shall, under his hand and seal, license the same for the interment of bodies according to the rites

* Words repealed by Statute Law Revision Act, 1892.

of the . . . * Church of England, . . . * and the licence of the said archbishop so granted as aforesaid shall, until such burial ground be consecrated, operate to make lawful the use of the same as if it had been consecrated. **Sec. 12.**

13. In any burial ground provided under the powers of the Acts hereinbefore recited or this Act, respecting which one of Her Majesty's principal Secretaries of State shall have certified that the necessary provisions have been complied with, it shall be lawful for the incumbent or incumbents of such parish or parishes for which such burial ground is provided, or his or their curate or curates, or such duly qualified person as any such incumbent may authorise, if such incumbent, curate, or such duly qualified person respectively think fit, to bury in such burial ground prior to the decision of the bishop or archbishop upon the application for the consecration thereof. Power to incumbent or curate to bury in burial ground certified by Secretary of State prior to consecration.

14. Whereas by Section thirty-two of the Act of the third year of King George the Fourth, Chapter one hundred and twenty-six, it is enacted that no toll shall be demanded or taken by virtue of that or any other Act or Acts of Parliament on any turnpike road of or from any inhabitant of any parish, township, or place going to or returning from attending the funeral of any person who shall die and be buried in the parish, township, or place in which any turnpike road shall lie, from and after the first day of July, One thousand eight hundred and fifty-eight, or from and after the termination of any now existing lease of tolls expiring before that date, the said enactment shall extend to exempt from toll every person going to or returning from attending the funeral of any person who shall be buried in any burial ground provided for the parish, township, or place in which he died under the Acts hereinbefore recited and this Act, or any of them, or under any other Act of Parliament, although such burial ground be not within the limits of the parish, township, or place for which it may have been provided, or in which the turnpike road shall lie. Section 32 of 3 G. 4, c. 126, exempting funerals from tolls, extending to funerals in burial grounds provided for the parish, although not within its limits.

15. That every person who shall wilfully destroy or injure or cause to be destroyed or injured, any register book of burials, kept according to the provisions of this Act, or any part or certified copy of any part of such Register, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of any such register or certified copy thereof, or shall wilfully insert or cause to be inserted in any registry book or certified copy thereof any false entry of any burial, or shall wilfully give any false certificate, or shall certify any writing to be a copy or extract of any such register book, knowing the same to be false in any part thereof, or shall forge or counterfeit the seal of any burial board, shall be guilty of felony. Persons wilfully destroying, &c., register book of burials guilty of felony.

16. . . . * The recited enactment of the said Act of King George the Third† shall not apply in any case where the ceremony of burial is performed in a burial ground provided or to be provided under the Acts of Her Majesty hereinbefore recited and this Act, or any of them. Section 4 of 52 G. 3, c. 146, not to apply to burials in grounds provided under the Burial Acts.

17. No fees shall be charged or received by any burial board in respect of any service done or right granted in the unconsecrated Fees for

* Part repealed by Statute Law Revision Act, 1892.

† Section 4 of 52 Geo. 3, c. 146, requires a certificate of burial (when performed elsewhere than at the parish churchyard) to be sent for registration to the parish rector or minister.

Sec. 17. service done in unconsecrated portion of burial ground to be identical as for consecrated portion.

portion of any burial ground provided by such board, but such as are identical in amount with the fees charged and received in respect of the same service or right in the consecrated portion of such ground, less any such portion of such corresponding fees or payments which may be received for or on account of any incumbent, churchwarden, clerk, or sexton, or of any trustee for or on behalf of any incumbent, churchwarden, clerk, or sexton.

18. (*Repealed by Statute Law Revision Act, 1892.*)

Clauses of 10 & 11 Vict., c. 16, with respect to mortgages incorporated.

19. The clauses of the Commissioners Clauses Act, 1847, with respect to mortgages to be executed by the commissioners, shall be incorporated with this Act, and shall apply to mortgages and other securities to be executed by burial boards; and for the purposes of this Act the expression "the commissioners" where used in the said clauses shall mean the burial board acting in the execution of the said clauses and the Acts hereinbefore recited or this Act.

Sinking fund to be provided for paying off mortgages.

20. Provided always, that for the purpose of providing a sinking fund for paying off the principal money borrowed on mortgages granted under any of the said Acts or this Act, the burial board shall once in every year set aside, out of the moneys charged by such mortgages, such sum as they think proper, being a sum equal to or exceeding one fiftieth part of the principal money so borrowed.

Power to burial boards to borrow money on terminable annuities.

21. Any burial board or council of a borough may, for the purpose of raising money, instead of making mortgages under any of the said Acts, grant terminable annuities for a life or lives, or for any number of years not exceeding thirty years, to be paid out of the like moneys as provided with regard to the moneys secured by such mortgages.

Power to councils of boroughs to make a separate rate for burial and expenses.

22. Any money required by the council of any borough for the purpose of defraying the expense of executing the Acts hereinbefore recited, or any of them, or this Act, or for paying any moneys borrowed under such Act, or any interest thereon, may be raised by such council, if they think fit, by means of a separate rate, to be called a burial rate, to be charged upon all property within such borough liable to be charged to the borough rate; and the council of such borough shall have all such powers for making and levying such rate, and all provisions shall be applicable in respect thereof, as in the case of a borough rate made under the [Act* passed in the session holden in the fifth and sixth years of King William the Fourth, Chapter seventy-six].

Orders in Council may be issued, on representation of Secretary of State, so as to prevent vaults, &c. being dangerous to health.

23.† [It shall be lawful for Her Majesty, upon the representation of one of Her Majesty's principal Secretaries of State, by and with the advice of her Privy Council, from time to time to order such acts to be done‡ by or under the directions of the churchwardens or such other persons as may have the care of any vaults or places of burial, for preventing them from becoming or continuing dangerous or injurious§ to the public health]; and every

* See now the Municipal Corporations Act, 1882, Section 242.

† As to this [] see the provisions of 22 Vict., c. 1, s. 1, p. 293.

‡ Jacobson v. St. Pancras, 44 J. P. 184.

§ See Rector of St. Michael's Bassishaw v. Parishioners of same, L. R. (1893) P. (233); and Rector of St. Mary-at-Hill v. Parishioners of same, L. R. (1892) P. 394.

such order in Council shall be published in the 'London Gazette,' and such churchwardens or other persons shall do or cause to be done all acts ordered as aforesaid, and the expenses incurred in and about the doing thereof shall be paid out of the poor rates of the parish: Provided always, that no such representation shall be made until ten days' previous notice of the intention to make such representation shall have been given to the churchwardens or other persons, or one of the churchwardens or other persons, having the care of the vaults or places of burial to which the representation relates.*

Sec. 23.

24. In all cases in which unconsecrated land or buildings is or are vested in a trustee or trustees, either under any local Act or otherwise, for the purposes of a cemetery or burial ground, and burials in such cemetery or burial ground shall by order in Council under the hereinbefore recited Acts or any of them have been ordered to be wholly or partially discontinued, it shall be lawful for the trustee or trustees for the time being of such cemetery or burial ground, from time to time, with the sanction of one of Her Majesty's principal Secretaries of State, to let, demise, or lease any part or parts in which no interment† shall have taken place of such land or buildings, and to renew or accept surrenders of any leases or tenancies thereof, and to sell and absolutely dispose thereof for money in gross, or for any perpetual or other rent or rents to be made payable thereout, and by public auction or private contract, and to sell all or any such perpetual or other rent or rents for money in gross and in manner aforesaid, and for any of the purposes aforesaid to make and execute any contracts, conveyances, leases, or other assurances, and to take any measures and make any arrangements which may be deemed expedient; and upon any such lease or sale as aforesaid a grant or conveyance by such trustee or trustees alone shall be a sufficient assurance of the property thereby purported to be leased or sold, and the receipts of such trustee or trustees shall be effectual discharges for the moneys therein expressed to have been received, and shall absolve any lessee or purchaser from having to see to or being answerable for the application of such moneys; and the net moneys to be received by such trustee or trustees under any of the preceding powers shall be applied by them in discharge of any incumbrances affecting such cemetery or burial ground, and any debts which such trustee or trustees may have properly incurred in their fiduciary capacity; and any residue of such moneys shall, where such land or buildings shall have been held in trust for any parish, be applied in such manner, for the benefit of such parish, as the vestry of such parish shall direct; but where such land or buildings shall have been held in trust for the benefit of private persons, such residue shall be divided by such trustee or trustees rateably among the cestuisque trusts; and it shall be lawful for such trustee or trustees so to apply any reserved fund in his or their hands.‡

Trustees of closed cemeteries empowered with sanction of Secretary of State to let, lease, or sell portions thereof which have not received interments.

* Applies only to consecrated places of burial, or places vested in trustees for burial; or in care of persons as places of burial when the 1857 Act passed. *Foster v. Dodd*, 1 L. R. Q. B. 475; 35 L. J. Q. B. 136; 12 Jur. n.s. 466; 14 L. T. 327; 14 W. R. 607; 7 B. and S. 140; see also *Jacobson v. St Pancras*, 44 J. P. 184.

† See note to 18 and 19 Vict., c. 128, s. 18, p. 282. *In re Ponsford, &c.*

‡ Taking part of a burial ground under an Improvement Act: Compensation under Lands Clauses Act. Land was dedicated to use as a

Bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State.

25. Except in the cases where a body is removed from one consecrated place of burial to another by faculty* granted by the ordinary for that purpose, it shall not be lawful to remove any body, or the remains of any body, which may have been interred in any place of burial, without licence under the hand of one of Her Majesty's principal Secretaries of State, and with such precautions as such Secretary of State may prescribe as the condition of such licence; and any person who shall remove any such body or remains, contrary to this enactment, or who shall neglect to observe the precautions prescribed as the condition of the licence for removal, shall, on summary conviction before any two justices of the peace, forfeit and pay for every such offence a sum not exceeding ten pounds.

Burial boards may in certain cases purchase cemeteries which have been closed.

26. Where any cemetery in which burials have, by order in Council, under the hereinbefore recited Acts or any of them, been ordered to be discontinued, is adjoining or near to any land appropriated or about to be appropriated by any burial board for the purposes of a burial ground, and appears to such board eligible for the purpose of appropriating or erecting buildings for or making approaches to such burial ground, it shall be lawful for such board, with the approval of the vestry or respective vestries, to purchase such cemetery; and where in the like case any cemetery has been so purchased before the passing of this Act, the purchase thereof shall be deemed to have been lawful: Provided always that, notwithstanding such purchase, such order in Council shall remain in full force and effect in relation to such cemetery.

Orders in Council to remain in force.

Resolutions, &c., of vestries not to be void by reason of irregularity of notices, &c.

27. No resolution or proceeding of any vestry or meeting in the nature of a vestry, for the purposes of the said recited Acts and this Act, or any of them, shall be void or voidable by reason of any defect or irregularity of or in notice of such vestry or meeting, or any other error in form in the calling of such vestry or meeting, or in the proceedings thereat, unless notice in writing of such defect or irregularity or error shall have been given at such vestry or meeting, or within seven days after the day of the holding thereof, to the churchwardens or other persons to whom it belongs to call meetings of such vestry, or such meeting in the nature of a vestry, who shall thereupon call another meeting for the purpose of considering the previous resolution or proceeding or the matter thereof, and no such resolution and proceeding made or taken at any such vestry or meeting in the nature of a vestry before the passing of this Act, which shall not have been objected to by notice in writing

burial ground; the burial ground was afterwards closed; the fee did not thereupon revert to the original owners. *Campbell v. Liverpool*, L. R. 9 Eq. 579; 21 L. T. 814; 18 W. R. 422.

As to who is entitled to the compensation money *see* the above case; also *ex parte* St. Martin's, Birmingham, L. R. 11 Eq. 23; 40 L. J. Ch. 69; 23 L. T. 575; and *ex parte* Liverpool, L. R. 11 Eq. 15; 40 L. J. Ch. 65.

The value of the burial ground to be compensated for is not to be calculated as if the land were secularised. *Stebbing v. Metropolitan Board of Works*, L. R. 6 Q. B. 37; 40 L. J. Q. B. 1; 23 L. T. 530; 19 W. R. 73.

As to sale of disused burial ground under special Act. *In re St. Saviour's Rectory*, 31 Ch. D. 412; 55 L. J. Ch. 269; 54 L. T. 9; 34 W. R. 224; 50 J. P. 325.

* *See* the cases noted under Section 23.

to such churchwardens or persons as aforesaid, shall be deemed **Sec. 27.**
invalid by reason of any such defect, irregularity, or error.

28. In the construction of this Act the expression "burial board" "Burial
shall mean a burial board constituted under the hereinbefore recited board."
Acts or any of them, or under this Act.

29. (*Section repealed by Statute Law Revision Act, 1892.*)

30. The hereinbefore recited Acts and this Act shall be construed **Recited Acts**
together as one Act. **and this to**
be as one.

BURIAL ACT, 1859.

22 VICT., C. 1.

An Act more effectually to prevent Danger to the Public Health
from Places of Burial. [25th March, 1859.]

WHEREAS by Section twenty-three of an Act passed in the session 20 & 21 Vict.,
holden in the twentieth and twenty-first years of Her Majesty, c. 81.
Chapter eighty-one, "to amend the Burial Act," it was enacted
that it should be lawful for Her Majesty, upon the representation of
one of Her Majesty's principal Secretaries of State, by and with
the advice of Her Privy Council, from time to time to order such
acts to be done by or under the directions of the churchwardens or
such other persons as might have the care of any vaults or places
of burial, for preventing them from becoming or continuing dan-
gerous or injurious to the public health; and such churchwardens
or other persons should do or cause to be done all acts ordered
as aforesaid, and the expenses incurred in and about the doing
thereof should be paid out of the poor rates of the parish; And
whereas it is expedient to amend the said enactment as hereinafter
mentioned: Be it enacted by the Queen's most Excellent Majesty,
by and with the advice and consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled,
and by the authority of the same, as follows:

1. Where it appears to one of Her Majesty's principal Secretaries of State, on the representation of any person authorised by him to inspect any vaults or place of burial in relation to which an order in Council has been or shall have been issued under the said recited enactment, that any acts which by such order in Council are ordered to be done by or under the direction of persons other than churchwardens having the care of such vaults or place of burial are not done or performed within a reasonable time, and according to the intent of such order in Council, it shall be lawful for such Secretary of State, by writing under his hand, to authorise and direct the churchwardens of the parish in which such vaults or place of burial may be situate forthwith to do or complete the acts in such order in Council mentioned, or such of them as remain undone, and such order of the Secretary of State shall be obeyed by such churchwardens, and they and all persons acting under their direction shall have the same power of entering and doing all such

Where persons having the care of a place of burial neglect to comply with order in Council, the churchwardens may act in their stead.

Sec. 1. acts upon the premises to which the order in Council relates as if the said acts had by the order in Council been directed to be done by such churchwardens, and such vaults or place of burial had been under their care; and any person who shall obstruct such churchwardens or any others acting under their direction in relation to the premises, or remove or interfere with the works done by such churchwardens, shall be guilty of a misdemeanor.

This and
recited Act
to be as one.

2. This Act shall be read together with the said Act of the twentieth and twenty-first years of Her Majesty, and the Burial Acts therein mentioned, as one Act.

BURIAL ACT, 1860.

23 & 24 VICT., C. 64.

An Act to make further Provision for the Expenses of Local Boards of Health and Improvement Commissioners acting as Burial Boards. [6th August, 1860.]

20 & 21 Vict.,
c. 81.

WHEREAS by an Act passed in the Session holden in the twentieth and twenty-first years of Her Majesty (Chapter eighty-one), "to amend the Burial Acts," it is provided that upon the petition of the Local Board of Health of any district established under the Public Health Act, or upon the petition of any commissioners elected by the ratepayers and acting under or by virtue of the powers of any local Act of Parliament for the improvement of any town, parish, or borough, stating that the district of such local board of health or of such commissioners is co-extensive with a district for which it is proposed to provide a burial ground, and that no burial board has been appointed for such district, and that an order in Council has been made for closing all or any of the burial grounds within the said district, it should be lawful for Her Majesty, with the advice of her Privy Council, in case Her Majesty see fit so to do, to order that such local board should be a burial board for the district of such local board, or that such commissioners should be a burial board for the district of such commissioners, and that thereupon such local board or such commissioners, as the case might be, should be a burial board for such district accordingly; And whereas under "The Local Government Act, 1858," * a local board may, at the option of the vestry, be the burial board in certain cases; And whereas it is expedient that such local boards and commissioners respectively, when constituted burial boards, should be authorised to provide for their expenses as hereinafter mentioned: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:

21 & 22 Vict.,
c. 98, s. 49.

Expenses
of local

1. Any money required by any local board constituted a burial board for defraying the expense of carrying into execution the

* See Schedule 5, Part III, Public Health Act, 1875.

powers and provisions of the Burial Acts and of this Act in the district for which they may have been so constituted a burial board, or for paying any moneys borrowed or annuities granted under the authority of the said Acts, or any interest on moneys borrowed, or for providing a sinking fund for the repayment of such moneys, may, if the local board so think fit, be paid out of the general district rates leviable within such district; and such local board may levy as part of the general district rate, or by a separate rate, under the name and designation of a burial rate to be assessed and recovered in like manner as a general district rate within the district for which they act as a burial board, such sums of money as shall be from time to time necessary for the purposes aforesaid, or any of them.

Sec. 1.

board constituted a burial board may be paid out of general district rate, or by a separate rate.

2. Any money required by any such commissioners as aforesaid who shall have been constituted a burial board for defraying the expense of carrying into execution the powers and provisions of the Burial Acts in the district for which they may have been so constituted a burial board, or for paying any moneys borrowed, or annuities granted under the authority of the said Acts, or any interest on moneys borrowed, or for providing a sinking fund for the repayment of such moneys, may, if the commissioners so think fit, be paid out of the improvement rate leviable within such district, and the commissioners as such burial board may levy as part of the improvement rate, or by a separate rate under the name and designation of a burial rate to be assessed and recovered in like manner as an improvement rate, such sums of money as shall be from time to time necessary for the purposes aforesaid, or any of them.

Expenses of improvement commissioners, when acting as a burial board, may be paid out of improvement rate, or by a separate rate.

3. The Local Board and the commissioners respectively who may have been constituted a burial board shall keep distinct accounts of their receipts and expenditure in the exercise of their functions as such burial board; and where their expenses are defrayed by moneys raised under the provisions of this Act, such accounts shall be audited in the same manner as other accounts of the receipts and expenditure of such local board and commissioners respectively, and any surplus of the moneys raised by any rate made under this Act, and of the income of any burial ground provided by means of moneys raised or paid under the provisions of this Act, which may remain after payment of the expenses and moneys which should be defrayed or paid under the Burial Acts, shall be applied in aid of the general district rate or improvement rate, as the case may be, levied within the district, which shall have been or might have been charged with a separate rate under this Act.

Separate accounts to be kept.

4. Where any parish or place has been divided into two or more parts or districts for all or any ecclesiastical purposes, and any one of such parts has a separate burial ground, it shall not be lawful for the vestry or meeting in the nature of a vestry for such entire parish or place to appoint a burial board without the approval of one of Her Majesty's principal Secretaries of State.

As to appointment of burial boards without consent of Secretary of State.

BURIAL ACT, 1862.

25 & 26 VICT., c. 100.

An Act to authorise Improvement Commissioners acting as Burial Boards to mortgage certain Rates for the Purposes of the Burial Acts. [7th August, 1862.]

23 & 24 Vict.,
c. 64.

WHEREAS by an Act passed in the session holden in the twenty-third and twenty-fourth years of the reign of Her Majesty (Chapter sixty-four), to make further provision for the expenses of local boards of health and improvement commissioners acting as burial boards, it was enacted that any money required by any commissioners elected by the ratepayers, and acting under or by virtue of the powers of any local Act of Parliament for the improvement of any town, parish, or borough, who should have been constituted a burial board for defraying the expense of carrying into execution the powers and provisions of the Burial Acts in the district for which they may have been so constituted a burial board, or for paying any moneys borrowed or annuities granted under the authority of the said Acts, or any interest on moneys borrowed, or for providing a sinking fund for the repayment of such moneys, might, if the commissioners thought fit, be paid out of the improvement rate leviable within such district; and the commissioners, as such burial board, might levy as part of the improvement rate, or by a separate rate under the name and designation of a burial rate, to be assessed and recovered in like manner as an improvement rate, such sums of money as should be from time to time necessary for the purposes aforesaid or any of them; And whereas doubts have arisen whether under such provisions the improvement rate or burial rate can be legally mortgaged or assigned as a security for the payment of the sums referred to in the said Act, and it is expedient that the commissioners acting as such burial board should have the power of mortgaging the said rates: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Commissioners, with consent of Treasury, may mortgage improvement rate and burial rate, or either.

1. Any commissioners elected by the ratepayers, and acting under or by virtue of the powers of any local Act of Parliament for the improvement of any town, parish, or borough who shall have been constituted a burial board for any district, may, with the approval of the commissioners of Her Majesty's Treasury, from time to time borrow at interest on mortgage of the improvement rate and burial rate, or either of them, leviable within the district, such sums of money as may be required by the burial board for the purposes of the Burial Act within the district.

Certain provisions of 10 & 11 Vict., c. 16, to apply to this Act.

2. The clauses and provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall be incorporated with this Act, and shall be applicable to all mortgages created under the provisions thereof.

BURIAL ACT, 1871.

34 & 35 VICT., C. 33.

An Act to explain and amend the Burial Acts. [29th June, 1871.] A.D. 1871.

(Preamble repealed by Statute Law Revision [2] Act, 1893.)

1. Where the approval of one of Her Majesty's principal Secretaries of State to the appointment of a burial board by a vestry or meeting in the nature of a vestry is required under the Burial Acts such vestry or meeting in the nature of a vestry shall not. . . . *
 appoint such board until a resolution of such vestry or meeting declaring the expediency of such appointment has been passed, and notice thereof sent to one of Her Majesty's principal Secretaries of State, and the same has been approved of by the Secretary of State, and approval of such resolution shall be deemed to be approval of the appointment of the board.

Approval of
Secretary of
State to
appointment
of burial
board.

The Secretary of State before giving such approval may require notice of such resolution, in such form and containing such particulars as he may direct, to be published in such manner as he may think sufficient for giving notice thereof to all persons interested. . . . *

2. This Act shall be construed as one with. . . † the Burial Acts, 1852 to 1871.

Act to be
construed
with Acts in
schedule.†

BURIAL ACT, 1880.

43 & 44 VICT., C. 41.

An Act to amend the Burial Laws. [7th September, 1880.] A.D. 1880.

WHEREAS it is expedient to amend the law of burial in England and the Channel Islands:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. After the passing of this Act any relative, friend, or legal representative having the charge of or being responsible for the burial of a deceased person may give forty-eight hours' notice in writing, indorsed on the outside "Notice of Burial," to, or leave or cause the same to be left at the usual place of abode of the rector, vicar, or other incumbent, or in his absence the officiating minister in charge of any parish or ecclesiastical district or place, or any person appointed by him to receive such notice, that it is intended that such deceased person shall be buried within the churchyard

After passing
of Act,
notice may
be given that
burial will
take place in
churchyard
or graveyard
without the
rites of the
Church of
England.

* Words repealed by Statute Law Revision Act, 1883.

† Words repealed by Statute Law Revision (No. 2) Act, 1893.

Sec. 1. or graveyard of such parish or ecclesiastical district or place without the performance, in the manner prescribed by law, of the service for the burial of the dead according to the rites of the Church of England, and after receiving such notice no rector, vicar, incumbent, or officiating minister shall be liable to any censure or penalty, ecclesiastical or civil, for permitting any such burial as aforesaid. Such notice shall be in writing, plainly signed with the name and stating the address* of the person giving it, and shall be in the form or to the effect of Schedule (A) annexed to this Act.

The word "graveyard" in this Act shall include any burial ground or cemetery vested in any burial board, or provided under any Act relating to the burial of the dead, in which the parishioners or inhabitants of any parish or ecclesiastical district have rights of burial; and in the case of any such burial ground or cemetery, if a chaplain is appointed to perform the burial service of the Church of England therein, notice under this Act shall be addressed to such chaplain, but the same shall be given to or left at the office of the clerk of the burial board, if any, in whom any such burial ground or cemetery may be vested: Provided also, that it shall be lawful for the proprietors or directors of any proprietary cemetery or burial ground to make such bye-laws or regulations as may be necessary for enabling any burial to take place therein in accordance with the provisions of this Act, any enactment to the contrary notwithstanding.

Paupers.

2. Such notice, in the case of any poor person deceased, whom the guardians of any parish or union are required or authorised by law to bury, may be given to the rector, vicar, or other incumbent in manner aforesaid, and also to the master of any workhouse in which such poor person may have died, or otherwise to the said guardians, by the husband, wife, or next-of-kin of such poor person, who, for the purposes of this Act, shall be deemed to be the person having the charge of the burial of such deceased poor person; and in any such case it shall be the duty of the said guardians to permit the body of such deceased person to be buried in the manner provided by this Act.

Time of burial to be stated, subject to variation.

3. Such notice shall state the day and hour when such burial is proposed to take place, and in case the time so stated be inconvenient on account of some other service having been, previously to the receipt of such notice, appointed to take place in such churchyard or graveyard, or the church or chapel connected therewith, or on account of any bye-laws or regulations lawfully in force in any graveyard limiting the times at which burials may take place in such graveyard, the person receiving the notice shall, unless some other day or time shall be mutually arranged within twenty-four hours from the time of giving or leaving such notice, signify in writing, to be delivered to or left at the address or usual place of abode of the person from whom such notice has been

* Notice of burial without Church service contained name of notifier but not his address: Held bad. *Hoare v. Ram*, 45 J. P. 729.

Not the duty of burial board to give notice to incumbent of parish to perform funeral service at cemetery under burial board, or that his services are not required. He is entitled to his fees only when he has performed the service or received notice not to perform it. *Wood v. Headingley Burial Board* (1892), 1 Q. B. 713; 66 L. T. 90; 40 W. R. 390; 56 J. P. 326.

received, or at the house where the deceased person is lying, at which hour of the day named in the notice, or (in case of burial in a churchyard, if such day shall be a Sunday, Good Friday, or Christmas Day) of the day next following, such burial shall take place; and it shall be lawful for the burial to take place, and it shall take place, at the hour so appointed or mutually arranged, and in other respects in accordance with the notice: Provided that, unless it shall be otherwise mutually arranged, the time of such burial shall be between the hours of ten o'clock in the forenoon and six o'clock in the afternoon if the burial be between the first day of April and the first day of October, and between the hours of ten o'clock in the forenoon and three o'clock in the afternoon if the burial be between the first day of October and the first day of April: Provided also, that no such burial shall take place in any churchyard on Sunday, or on Good Friday or Christmas Day, if any such day being proposed by the notice shall be objected to in writing for a reason assigned by the person receiving such notice.

Sec. 3.

4. When no such intimation of change of hour is sent to the person from whom the notice has been received, or left at the house where the deceased person is lying, the burial shall take place in accordance with and at the time specified in such notice.

Burial to take place accordingly.

5. All regulations as to the position and making of the grave which would be in force in such churchyard or graveyard in the case of persons interred therein with the service of the Church of England shall be in force as to burials under this Act; and any person who, if the burial had taken place with the service of the Church of England, would have been entitled by law to receive any fee, shall be entitled, in case of a burial under this Act, to receive the like fee in respect thereof.*

Regulations and fees.

6. At any burial under this Act all persons shall have free access to the churchyard or graveyard in which the same shall take place. The burial may take place, at the option of the person so having the charge of or being responsible for the same as aforesaid, either without any religious service, or with such Christian and orderly religious service at the grave as such person shall think fit; and any person or persons who shall be thereunto invited, or be authorised by the person having the charge of or being responsible for such burial, may conduct such service or take part in any religious act thereat. The words "Christian service" in this section shall include every religious service used by any church, denomination, or person professing to be Christian.

Burial may be with or without religious service.

7. All burials under this Act, whether with or without a religious service, shall be conducted in a decent and orderly manner; and every person guilty of any riotous, violent, or indecent behaviour at any burial under this Act, or wilfully obstructing such burial or any such service as aforesaid thereat, or who shall, in any such churchyard or graveyard as aforesaid, deliver any address, not being part of or incidental to a religious service permitted by this Act, and not otherwise permitted by any lawful authority, or who shall, under colour of any religious service or otherwise, in any such

Burials to be conducted in a decent and orderly manner and without obstruction.

* Incumbent has no right to grant sepulture to strangers in burial board's cemetery. *Wood v. Headingley Burial Board* (1892), 1 Q. B. 713; 66 L. T. 90; 40 W. R. 390; 56 J. P. 326.

Sec. 7. churchyard or graveyard, wilfully endeavour to bring into contempt or obloquy the Christian religion or the belief or worship of any church or denomination of Christians, or the members or any minister of any such church or denomination, or any other person, shall be guilty of a misdemeanor.

Powers for prevention of disorder.

8. All powers and authorities now existing by law for the preservation of order, and for the prevention and punishment of disorderly behaviour in any churchyard or graveyard, may be exercised in any case of burial under this Act in the same manner and by the same persons as if the same had been a burial according to the rites of the Church of England.

Act not to give right of burial where no previous right existed.

9. Nothing in this Act shall authorise the burial of any person in any place where such person would have had no right of interment if this Act had not passed, or without performance of any express condition on which, by the terms of any trust deed, any right of interment in any burial ground vested in trustees under such trust deed, not being the churchyard or graveyard, or part of the churchyard or graveyard, of the parish or ecclesiastical district in which the same is situate, may have been granted.

Burials under Act to be registered.

10. When any burial has taken place under this Act the person so having the charge of or being responsible for such burial as aforesaid shall, on the day thereof, or the next day thereafter, transmit a certificate of such burial, in the form or to the effect of Schedule (B) annexed to this Act, to the rector, vicar, incumbent, or other officiating minister in charge of the parish or district in which the churchyard or graveyard is situate or to which it belongs, or in the case of any burial ground or cemetery vested in any burial board to the person required by law to keep the register of burials in such burial ground or cemetery, who shall thereupon enter such burial in the register* of burials of such parish or district, or of such burial ground or cemetery, and such entry shall form part thereof. Such entry, instead of stating by whom the ceremony of burial was performed, shall state by whom the same has been certified under this Act. Any person who shall wilfully make any false statement in such certificate, and any rector, vicar, or minister, or other such person as aforesaid, receiving such certificate, who shall refuse or neglect duly to enter such burial in such register as aforesaid, shall be guilty of a misdemeanor.

Order of coroner or certificate of registrar to be delivered to relative, &c., instead of to person who buries.

11. Every order of a coroner or certificate of a registrar given under the provisions of Section seventeen of the Births and Deaths Registration Act, 1874, shall, in the case of a burial under [that†] Act, be delivered to the relative, friend, or legal representative of the deceased, having the charge of or being responsible for the burial, instead of being delivered to the person who buries or performs any funeral or religious service for the burial of the body of the deceased; and any person to whom such order or certificate shall have been given by the coroner or registrar who fails so to deliver or cause to be delivered the same shall be liable to a penalty not exceeding forty shillings; and any such relative, friend, or legal representa-

* Clergy of the Church of England must register certificates of burial of persons buried in churchyards under this Act without the rites of the Church of England. Reg. v. Hall, 45 J. P. 436.

† For "that" read "this;" see 44 Vict., c. 2, s. 2, *post*, page 302.

tive so having charge of or being responsible for the burial of the body of any person buried under this Act as aforesaid, as to which no order or certificate under the same section of the said Act shall have been delivered to him, shall, within seven days after the burial, give notice thereof in writing to the registrar, and if he fail so to do shall be liable to a penalty not exceeding ten pounds. Sec. 11.

12. No minister in holy orders of the Church of England shall be subject to any censure or penalty for officiating with the service prescribed by law for the burial of the dead according to the rites of the said church in any unconsecrated burial ground or cemetery or part of a burial ground or cemetery, or in any building thereon, in any case in which he might have lawfully used the same service, if such burial ground or cemetery or part of a burial ground or cemetery had been consecrated. The relative, friend, or legal representative having charge of or being responsible for the burial of any deceased person who had a right of interment in any such unconsecrated ground vested in any burial board, or provided under any Act relating to the burial of the dead, shall be entitled, if he think fit, to have such burial performed therein according to the rites of the Church of England by any minister of the said church who may be willing to perform the same. Liberty to use burial service of Church of England in unconsecrated ground.

13. From and after the passing of this Act it shall be lawful for any minister in holy orders of the Church of England authorised to perform the burial service, in any case where the office for the burial of the dead according to the rites of the Church of England may not be used, and in any other case at the request of the relative, friend, or legal representative having the charge of or being responsible for the burial of the deceased, to use at the burial such service, consisting of prayers taken from the Book of Common Prayer and portions of Holy Scripture as may be prescribed or approved of by the ordinary, without being subject to any ecclesiastical or other censure or penalty. Relief of clergy of Church of England from penalties in certain cases.

14. Save as is in this Act expressly provided as to ministers of the Church of England, nothing herein contained shall authorise or enable any such minister who shall not have become a declared member of any other church or denomination, or have executed a deed of relinquishment under the Clerical Disabilities Act, 1870, to do any act which he would not by law have been authorised or enabled to do if this Act had not passed, or to exempt him from any censure or penalty in respect thereof. Saving as to ministers of Church of England.

15. This Act shall extend to the Channel Islands, but shall not apply to Scotland or to Ireland. Application of Act.

16. This Act may be cited as the Burial Laws Amendment Act, 1880. Short title of Act.

SCHEDULES to which this Act refers.

SCHEDULE (A).

Notice of Burial.

I , of , being the relative
[or friend, or legal representative, as the case may be, describing

the relation if a relative], having the charge of or being responsible for the burial of *A. B.*, of _____, who died at _____, in the parish of _____, on the _____ day of _____, do hereby give you notice that it is intended by me that the body of the said *A. B.* shall be buried within the [here describe the churchyard or graveyard in which the body is to be buried], on the _____ day of _____, at the hour of _____, without the performance in the manner prescribed by law of the service for the burial of the dead according to the rites of the Church of England, and I give this notice pursuant to the Burial Laws Amendment Act, 1880.

To the rector [*or, as the case may be*] of _____

SCHEDULE (B).

I _____, of _____, the person having the charge of (*or being responsible for*) the burial of the deceased, do hereby certify that on the _____ day of _____, *A. B.*, of _____, aged _____, was buried in the churchyard [*or graveyard*] of the parish [*or district*] of _____

To the rector [*or, as the case may be*] of _____

BURIAL ACT, 1881.

44 VICT., C. 2.

A.D. 1881. An Act to remove Doubts as to the Operation and Effect of so much of the Burial Laws Amendment Act, 1880, as relates to the Births and Deaths Registration Act, 1874.

[17th February, 1881.]

WHEREAS doubts have arisen as to the operation and effect of the eleventh section of the Burial Laws Amendment Act, 1880, by reason of a clerical error in the first sentence thereof; and it is expedient that such doubts should be removed:

Be it declared and enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Nothing in the eleventh section of the Burial Laws Amendment Act, 1880, shall have, or be deemed in law to have had, the effect of repealing, or in any manner altering, any of the provisions contained in the seventeenth section of the Births and Deaths Registration Act, 1874, in any case whatever, save and except only the case of a burial under the Burial Laws Amendment Act, 1880.

2. The words "in the case of a burial under that Act" in the first sentence of Section eleven of the Burial Laws Amendment Act, 1880, shall be construed and read as if they had been "in the case of a burial under this Act."

3. This Act may be cited as the Burial and Registration Acts (Doubts Removal) Act, 1881.

Explan-
ation of
43 & 44 Vict.,
c. 41, s. 11.
37 & 38 Vict.,
c. 88.
43 & 44 Vict.,
c. 41.

Construc-
tion of
43 & 44 Vict.,
c. 41, s. 11.

Short title.

BURIAL ACT, 1885.

48 & 49 VICT., C. 21.

An Act to amend the Law with respect to Contested Elections of Burial Boards. A.D. 1885.
[25th June, 1885.] —

WHEREAS it is expedient that provision should be made with respect to the payment of expenses incurred in contested elections of burial boards appointed by vestries: Preamble.

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Burial Boards (Contested Elections) Act, 1885. Short title.

2. The reasonable expenses incurred in taking a poll of the rate-payers of any parish or part of a parish on the occasion either of the appointment or re-appointment by the vestry of persons to be the burial board for such parish or part of a parish, or of the filling up by the vestry of any vacancy or vacancies on such burial board, shall be defrayed by the burial board in the same manner as if they were expenses incurred by such burial board in carrying the Burial Acts into execution, and may be included in any certificate to the overseers in respect of the expenses of such burial board. Expenses of
polls to be
paid by the
burial board.

THE FAIRS ACT, 1871.

34 VICT., C. 12.

An Act to further amend the Law relating to Fairs in England and Wales. A.D. 1871.
[25th May, 1871.] —

WHEREAS certain of the fairs held in England and Wales are unnecessary, are the cause of grievous immorality, and are very injurious to the inhabitants of the towns in which such fairs are held, and it is therefore expedient to make provision to facilitate the abolition of such fairs:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The Fairs Act, 1871." Title.

2. In this Act the term "owner" means any person or persons, or body of commissioners, or body corporate, entitled to hold any fair, whether in respect of the ownership of any lands or tenements, or under any charter, letters patent, or Act of Parliament, or otherwise howsoever. Definition of
"owner."

Secretary of State may, on representation of magistrates, with consent of owner, order fair to be abolished.

Notice of representation to be published in newspapers.

Order of Secretary of State to be published in newspaper.

3. In case it shall appear to the Secretary of State for the Home Department, upon representation duly made to him by the magistrates* of any petty sessional district within which any fair is held, or by the owner of any fair in England or Wales, that it would be for the convenience and advantage of the public that any such fair shall be abolished, it shall be lawful for the said Secretary of State for the Home Department, with the previous consent in writing of the owner for the time being of such fair, or of the tolls or dues payable in respect thereof, to order that such fair shall be abolished accordingly: Provided always, that notice of such representation, and of the time when it shall please the Secretary of State for the Home Department to take the same into consideration, shall be published once in the 'London Gazette,' and in three successive weeks in some one and the same newspaper published in the county, city, or borough in which such fair is held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, before such representation is so considered.

4. When and so soon as any such order as aforesaid shall have been made by the Secretary of State for the Home Department, notice of the making of the same shall be published in the 'London Gazette,' and in some one newspaper of the county, city, or borough in which such fair is usually held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, and thereupon such fair shall be abolished.

THE FAIRS ACT, 1873.

36 & 37 VICT., C. 37.

A.D. 1873. **An Act to amend the Law relating to Fairs in England and Wales.**
[7th July, 1873.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

- | | |
|----------------------|--|
| Short title. | 1. This Act may be cited as "The Fairs Act, 1873." |
| Extent of Act. | 2. This Act shall not extend to Scotland or Ireland. |
| Definition of terms. | 3. In this Act the term "owner" means any person or persons, or body of commissioners or body corporate, entitled to hold any fair, whether in respect of the ownership of any lands or tenements, or under any charter, letters patent, or otherwise however. |
| Commencement of Act. | 4. This Act shall commence and take effect on the passing thereof. |

5. (*Repealed by Statute Law Revision Act, 1883.*)

* Now the district council of the district (Section 27, Local Government Act, 1894).

6. In case it shall appear to one of Her Majesty's principal Secretaries of State, hereinafter referred to as a Secretary of State, upon representation duly made to him by the justices* acting in and for the petty sessional division within which any fair is held, or by the owner of any fair in England or Wales, that it would be for the convenience and advantage of the public that any such fair shall be held in each year on some day or days other than that or those on which such fair is used to be held or on the day or days on which such fair is used to be held and any preceding or subsequent day or days, or on or during a less number of days than those on which such fair is used to be held, it shall be lawful for a Secretary of State to order that such fair shall be held on such other day or days, or on the same day or days and any preceding or subsequent day or days, or on or during any less number of days as he shall think fit: Provided always, that notice of such representation and of the time when it shall please a Secretary of State to take the same into consideration shall if such representation shall have been made by justices be given to the owner of such fair, and shall if such representation shall have been made by the owner of such fair be given to the clerk to the justices acting in and for the petty sessional division within which such fair is held, and shall also be published once in the 'London Gazette,' and in three successive weeks in some one and the same newspaper published in the county, city, or borough in which such fair is held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, before such representation is so considered.

Power to
Secretary of
State to
alter days
of holding
fairs.

7. When and so soon as any such order as aforesaid shall have been made by a Secretary of State, notice of the making of the same shall be published in the 'London Gazette' and in some one newspaper of the county, city, or borough in which such fair is usually held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, and thereupon such fair shall only be held on the day or days mentioned in such order; and it shall be lawful for the owner of such fair to take all such toll or tolls, and to do all such act or acts, and to enjoy all and the same rights, powers, and privileges in respect thereof, and enforce the same by all and the like remedies, as if the same were held on the day or days upon which it was used to be held previous to the making of such order.

Order of
Secretary of
State to be
published in
certain
newspapers.

All rights,
&c., of owner
to remain
good.

* Now the district council of the district (Section 27, Local Government Act, 1894).

INFANT LIFE PROTECTION ACT, 1872.

35 & 36 VICT., C. 38.

A.D. 1872. An Act for the Better Protection of Infant Life.

[25th July, 1872.]

WHEREAS it is expedient to make better provision for the protection of infants entrusted to persons to be nursed or maintained for hire or reward in that behalf:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

Interpreta-
tion clause.

1. The term "Summary Jurisdiction Acts" means as follows:

As to England, the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, Chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," and any Acts amending the same;

As to Scotland, "the Summary Procedure Act, 1864;"

As to Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district or of the police of such district; and elsewhere in Ireland, "the Petty Sessions (Ireland) Act, 1851," and any Act amending the same:

The term "court of summary jurisdiction" means and includes any justice or justices of the peace, sheriff or sheriff substitute, metropolitan police magistrate, stipendiary or other magistrate or authority, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to, or to proceedings before whom the provisions of the Summary Jurisdiction Acts are or may be made applicable:

In this Act the words "local rate," "local jurisdiction," and "local authority"* mean, in reference to the districts mentioned in the first column of the First Schedule annexed hereto, the rate, jurisdiction, and authority mentioned in the second, third, and fourth columns of the said schedule, and such schedule and the notes thereto annexed shall be deemed to be part of this Act.

Houses of
persons
retaining or
receiving for
hire two or
more infants
for the pur-
pose of
nursing to be
registered.

2. From and after the commencement of this Act it shall not be lawful for any person to retain or receive for hire or reward in that behalf more than one infant, and in case of twins more than two infants, under the age of one year for the purpose of nursing or maintaining such infants apart from their parents for a longer period than twenty-four hours, except in a house which has been registered as herein provided.

* See Local Government Act, 1894, Section 27 (p. 118).

3. The local authority shall cause a register to be kept in which shall be entered the name of every person applying to register any house for the purposes of this Act, and the situation of every such house, and the local authority shall from time to time make bye-laws for fixing the number of infants who may be received into each house so registered; the registration shall remain in force for one year; no fee shall be charged for registration. Every person who receives or retains any infant in contravention to the provisions of this Act shall be guilty of an offence against this Act.

Register of names and houses to be kept by local authority.

4. The local authority may refuse to register any house, unless they are satisfied that such house is suitable for the purposes for which it is to be registered, and unless they are satisfied by the production of certificates that the person applying to be registered is of good character and able to maintain such infants.

Local authority may refuse to register.

5. The person registered as aforesaid shall immediately enter in a register to be kept by him the name, sex, and age of each infant under his care, and the date at which and the names and addresses of the persons from whom they were received, and shall also enter in the said register the time when and the names and addresses of the person by whom every such infant received and retained as aforesaid shall be removed immediately after the removal of such infant, and shall produce the said register when required to do so by the local authority; and in the event of his refusing so to produce the said register or neglecting to enter in a register the name, sex, and age of each of the said infants, and the date at which and the names and addresses of the persons from whom they were received and by whom they were removed respectively, shall be liable to a penalty not exceeding five pounds. The person registered shall be entitled to receive gratuitously from the local authority a book of forms for the registration of infants; such register may be in the form contained in the second schedule to this Act.

Persons whose names and houses are registered to keep a register of infants and to produce it when lawfully required.

6. If any person shall make false representations with a view to being registered under this Act, or shall forge any certificate for the purpose of this Act, or make use of any forged certificate, knowing it to be forged, or shall falsify any register kept in pursuance of this Act, he shall be guilty of an offence against this Act.

Forgery of certificate and falsifying register.

7. If it shall be proved to the satisfaction of the local authority that any person whose house has been so registered as aforesaid has been guilty of serious neglect, or is incapable of providing the infants entrusted to his care with proper food and attention, or that the house specified in the register has become unfit for the reception of infants, it shall be lawful for the local authority to strike his name and house off the register.

Local authority may strike name and house off register for neglect, &c.

8. The person registered as aforesaid shall, within twenty-four hours after the death of every infant so retained or received, cause notice thereof to be given to the coroner of the district within which the said infant died, and the said coroner shall hold an inquest on the body of every such infant unless a certificate under the hand of a registered medical practitioner shall be produced to him by the person so registered, certifying that such registered

Inquest to be held on death of infant.

- Sec. 8.** medical practitioner has personally attended or examined such infant, and specifying the cause of its death, and the said coroner shall be satisfied by such certificate that there is no ground for holding such inquest. If the person so registered shall neglect to give notice as aforesaid he shall be guilty of an offence under this Act.
- Punishment for offence under this Act.** 9. Every person guilty of an offence under this Act shall be liable to imprisonment for not more than six months, with or without hard labour, or to a penalty not exceeding five pounds, as a court of summary jurisdiction may award, and shall in addition be liable to have his name and house struck off the register.
- Payment of expenses out of local rate.** 10. All expenses incurred in and about the execution of this Act shall be defrayed out of the local rate.
- Offence, how to be prosecuted.** 11. Any offence under this Act may be prosecuted before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts: Provided as follows:
. . . (Words repealed by 47 & 48 Vict., c. 43.)
 The court of summary jurisdiction, when hearing, trying, determining, and adjudging an information or complaint in respect of any offence or matter arising under this Act, shall be constituted either of two or more justices of the peace in petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.
- Application of penalties recovered under the Act.** 12. Any moneys arising from fees or fines under this Act shall be paid to the account of the local rate, and be applied to the purposes to which that rate is applicable.
- Exceptions from provisions of Act.** 13. The provisions of this Act shall not extend to the relatives or guardians of any infant retained or received as aforesaid, nor to institutions established for the protection or care of infants, nor to any person receiving any infant for the purpose of nursing or maintaining such infant under the provisions of any Act for the relief of the poor.
- Act subject to certain provisions in its application to Scotland.** 14. This Act shall, in its application to Scotland, be subject to the following provisions:
 1. The expression "crime and offence" shall be equivalent to the expression "offence," and shall be substituted therefor:
 2. For a coroner's inquest shall be substituted an inquiry by the procurator fiscal of the county into the cause of death:
 3. The expenses of an inquiry by a procurator fiscal under this Act shall be defrayed out of the same funds as the expenses of an inquiry by him in a case of sudden death:
 4. The court of summary jurisdiction, when hearing, trying, determining, and adjudicating an information or complaint in respect of any offence or matter arising under this Act, shall be constituted of a sheriff or sheriff substitute.
15. (*Repealed by 56 and 57 Vict., c. 54.*)
- Short title.** 16. This Act may be cited as "The Infant Life Protection Act, 1872."

THE FIRST SCHEDULE referred to in the foregoing Act.

ENGLAND.

District.	Local Rate.	Local Jurisdiction.	Local Authority.
Counties, except the metropolis and city of London	The county rate or rate in the nature of a county rate	Petty sessional division	Justices in petty* sessions.
The metropolis	Rate or fund applicable to the payment of the general expenses of the board	Area of the metropolis	The Metropolitan Board of Works.
City of London and the liberties thereof	Consolidated sewers rate	Area of the city of London and the liberties thereof	Common Council.
Boroughs	The borough fund or borough rate	Area of borough	Council.

“County” shall not include a county of a city or county of a town, but shall include any riding, division, parts, or liberty of a county having a separate commission of the peace.

Where a county or liberty of a county having a separate commission of the peace is not divided into petty sessional divisions, such county or liberty of a county shall itself for the purposes of this Act be deemed to be a petty sessional division of the county by which it is constituted or in which it is geographically situate.

“The metropolis” shall include all parishes and places in which the Metropolitan Board of Works† have power to levy a main drainage rate, exclusive of the city of London and the liberties thereof.

“Borough” shall mean any place for the time being subject to the Municipal Corporations Act, 1882, *see* Section 242 (1) of that Act, and having a separate court of quarter sessions.

Every place that is not, according to the foregoing definitions, a borough, a county, or part of the metropolis or city of London, or the liberties thereof, shall be deemed to form part of the county, as hereinbefore defined, to the county rate of which it is assessed, or, if not so assessed, of the county within which it is situate.

* By Local Government Act, 1894, Section 27, the powers of the justices as local authority under this Act are transferred to the district council of the district.

† Now London County Council.

SCOTLAND.

District.	Local Rate.	Local Jurisdiction.	Local Authority.
Counties	The county general assessment	Area subject to the county general assessment	Justice of peace.
Burghs, royal or parliamentary, not subject to the separate jurisdiction of police commissioners or trustees	The revenue or common good of the burgh or any rate leviable by the town council	Area of the burgh	Town council.
Burghs and places where police commissioners or trustees exercise the functions of police commissioners or trustees under any general or local Act	Any rate leviable by the commissioners or trustees, or any fund belonging to them	Area within the boundaries of the burgh or place as defined under the general or local Act	The commissioners or trustees.

IRELAND.

Towns corporate	The borough rate or borough fund	Area of borough	Town council.
Towns having commissioners appointed by virtue of an Act made in the ninth year of the reign of George the Fourth, intitled "An Act to make provision for the lighting, cleansing, and watching of cities and towns corporate and market towns in Ireland in certain cases"	Any rate leviable by the commissioners	Area of town	The commissioners.
Towns having town commissioners under the Towns Improvement (Ireland) Act, 1854 (17 & 18 Vict., c. 103), or under any other local Act		Area of town	The commissioners.
Townships having commissioners under local Acts		Area of township	The commissioners.
Places in Ireland not included in the foregoing descriptions	The grand jury cess	Area of petty sessional district in which the place is situate	The petty sessions for the district in which the place is situate.

THE SECOND SCHEDULE referred to in the foregoing Act.

REGISTER OF INFANTS.

Date at which received.	Name.	Sex.	Age.	Name and Address of Person from whom received.	Date at which removed.	Name and Address of Person by whom removed.

THE KNACKERS ACT, 1786.

26 GEO. III, C. 71.

An Act for regulating Houses and other Places kept for the Purpose of slaughtering Horses.*

WHEREAS the practice of stealing horses, cows, and other cattle hath Preamble.

of late years increased to an alarming degree, and hath been greatly facilitated by certain persons of low condition who keep houses or places for the purpose of slaughtering horses and other cattle: for remedy whereof, be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the twentieth day of July, in the year of our Lord One thousand seven hundred and eighty-six, no person or persons shall keep or use any house or place for the purpose of slaughtering or killing any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle, which shall not be killed for butcher's meat, without first taking out a licence for that purpose at the general quarter sessions,† held for the county, riding, city, town, district, division, or liberty wherein such slaughtering house or place shall be situate; and the justices of the peace, at their general quarter sessions assembled are hereby authorised and empowered to grant such licences as aforesaid, upon a certificate under the hands and seals of the minister and churchwardens, or overseers, or of the minister and two or more substantial householders of the parish wherein the person or persons applying for such licence shall dwell, that such person or persons is or are fit and proper to be trusted with the management and carrying on such business as aforesaid: Provided always, that in case of the death of any person to whom such licence as aforesaid shall be granted, it shall and may be lawful for the widow or personal representative of such person so dying to carry on the said business until the then next ensuing general quarter sessions of the peace.

From July 20th, 1786, every person keeping a slaughtering house to take out a licence, &c.

* This Act was repealed as to London by the Public Health (London) Act, 1891.

† See Section 27, Local Government Act, 1894 (p. 118).

Justices to grant licences, which are to be entered, &c.

Persons licensed to affix to their houses the words herein mentioned.

Previous notice to be sent when horses, &c., are intended to be slaughtered to the inspector, who is to take an account of the beasts, &c.

Times of slaughtering, &c.

2. And be it further enacted, That every such licence shall be signed by the justices of the peace * assembled at such general quarter sessions, or by the major part of them; and a copy of every such licence shall be entered in a book to be kept for that purpose by the clerk of the peace of the county wherein the same shall be so granted as aforesaid; and that all and every person and persons shall have liberty at all times (Sundays excepted) between the hours of ten and twelve of the clock in the forenoon, to search the office of such clerk of the peace wherein any such copy shall be entered or kept, and to make an extract or extracts from the same, paying for every such search the sum of sixpence; and all and every person and persons so licensed as aforesaid shall cause to be painted or affixed over the door or gate of the house or place where he, she, or they shall carry on the said business, in large legible characters, his, her, and their name and names with the words licensed for slaughtering horses, pursuant to an Act passed in the twenty-sixth year of His Majesty King George the Third.†

3. And be it further enacted, That every occupier and occupiers of every such licensed slaughtering house or place shall six hours previous to the slaughtering or killing of any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle which shall not be killed for the purpose of butcher's meat, and previous to the flaying any such horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle brought dead to such slaughtering house or other place give notice in writing to a person to be appointed in manner hereinafter mentioned, as inspector, to the intent that such inspector may, upon such notice as aforesaid, and before any such horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle shall be slaughtered, killed, or flayed, take an exact account and description of the height, age (as near as may be), colour, and particular marks of every horse, mare, gelding, foal or filly, ass or mule, brought alive for the purpose of being slaughtered or killed, or brought dead as aforesaid, and of the colour and particular marks of every cow, bull, heifer, ox, calf, sheep, hog, goat, or other cattle brought alive or dead for either of the purposes aforesaid; and no such horse, mare, gelding, foal or filly, ass, mule, ox, bull, cow or heifer, calf, sheep, hog, goat, or other cattle shall be slaughtered, killed, or flayed but between the hours of eight of the clock in the morning and four of the clock in the evening during the months of October, November, December, January, February, and March, and between the hours of six of the clock in the morning and eight of the clock in the evening during the months of April, May, June, July, August, and September in every year.

* The duty of granting such licences will in future devolve upon the district council of the district (Local Government Act, 1894, Section 27).

† No penalty was provided in the above Act for omitting to affix a notice over the door or gate of the house showing that the premises are licensed for slaughtering horses, &c. This is remedied by Section 7 of 12 and 13 Vict., c. 92 (Act for Preventing Cruelty to Animals), which provides as follows:—"For remedy whereof, be it enacted that any person licensed as aforesaid who shall refuse or neglect to comply with the said recited provision of the said recited Act shall forfeit and pay for such offence a penalty not exceeding £5, and shall forfeit and pay a like penalty for every day during which such refusal or neglect shall continue."

4. And be it further enacted, that every person so licensed as aforesaid shall, at the time any horse, mare, or gelding, colt, filly, ass, or mule, or any ox, bull, cow, heifer, calf, sheep, hog, goat, or any other cattle shall be brought for the purpose of slaughtering, killing, or flaying, make or cause to be made an entry in a book to be kept for that purpose, in a fair legible hand, of the name and names, place and places of abode, profession and professions of the owner or owners thereof, and also of the person or persons who shall bring the same to be slaughtered, killed, or flayed, and the reason or reasons why the same is brought to be slaughtered, killed, or flayed, which reason and reasons the person or persons bringing the same is and are hereby required to declare to such person or persons so licensed as aforesaid, which book shall at all times be open for the perusal and examination of the inspector and inspectors to be appointed under this Act; and all and every such licensed person and persons shall at all times attend with, and produce such book before any one justice of the peace for the county, city, liberty, or place where such licensed slaughtering house or place shall be situate, when required by warrant or order under the hand and seal of such justice of the peace so to do, and shall likewise produce the same at every general quarter sessions of the peace which shall be held in and for the said county.

Account to be kept by the owners of slaughtering-houses of the owners of the cattle brought, &c.

5. And be it further enacted, that such of the parishioners as by law are entitled to meet in vestry for the purpose of choosing parish officers shall, in every parish wherein any such slaughtering house or place shall be situated, annually or oftener, as occasion may require, appoint one or more proper person or persons to be an inspector or inspectors to inspect every such slaughtering house and place as aforesaid, to whom all and every occupier and occupiers, person and persons, carrying on such business as aforesaid, shall six hours previous to his, her, or their slaughtering, killing, or flaying any such horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle give notice in writing of his, her, or their intention so to do; and such inspector or inspectors shall in person, or by his or their servant or servants, attend at the slaughtering house or place of the person or persons so giving such notice, and there take such account and description as hereinbefore directed; and every such inspector shall and is hereby required to keep a book or books, and therein to make an entry of every such account and description; and every such occupier or person carrying on such business as aforesaid shall, for every such entry, pay to such inspector sixpence; and all and every person and persons desiring to inspect such book or books shall have access to the same at all times between the hours of eight of the clock in the morning and five in the evening during the months of October, November, December, January, February, and March, and between the hours of six of the clock in the morning and eight in the evening during the months of April, May, June, July, August, and September in every year, paying to such inspector, for every such search, the sum of sixpence, and no more; and every such inspector, so appointed as aforesaid, shall cause to be painted or affixed over the door of the house where he resides his name, and the words inspector of houses and places for slaughtering horses; and in case such inspector or inspectors shall, upon examination of any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle intended to be slaughtered or killed, have reason to believe, or be of opinion that such horse,

Vestry to appoint inspectors.

Inspector's duty.

Sec. 5. mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle is or are free from disease, and in a sound and serviceable state, or that the same has been stolen or unlawfully come by, he or they shall have power and is and are hereby authorised and required to prohibit the slaughtering or killing of any such horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle for any time not exceeding the space of eight days; and in the meantime shall and is and are hereby directed and required to cause an advertisement or advertisements to be inserted in the *Daily Advertiser*, or some public newspaper circulated in the county where such slaughter-house or place shall be situated, twice or oftener, unless the owner or owners of such horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle shall sooner claim the same, to certify under his, her, or their hand or hands to, or otherwise satisfactorily inform the said inspector or inspectors that he, she, or they sent or delivered, or caused the said horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other such cattle to be delivered to the said person or persons so licensed for the purpose of being slaughtered or killed, the expense of inserting such advertisement or advertisements as aforesaid to be paid by the occupier or occupiers of such slaughtering house or place to such inspector or inspectors; and in case such occupier or occupiers of such slaughtering house or place shall refuse to defray or pay the same, and shall be thereof convicted on the oath of any such inspector as aforesaid before any one justice of the peace for the county or district wherein such slaughtering house or place shall be situated, he, she, or they shall forfeit double the amount of the charge of such advertisement or advertisements. . . .

Words repealed by Stat. Law Revision Act, 1892.

Inspectors may visit slaughtering-houses at all times.

6. And be it further enacted, that it shall and may be lawful to and for every inspector so appointed as aforesaid at all times in the day or night, but if in the night, then in the presence of a constable, to go to, enter into, and inspect any house or place kept for slaughtering or killing horses by any person or persons licensed as aforesaid, and also any stable, building, shed, yard, or place belonging thereto, and then and there to examine, search for, and see if any horse, mare, gelding, foal, filly, ass or mule, bull, cow, ox, heifer, calf, sheep, hog, goat, or other cattle is or are deposited or have been brought there, and to take an account thereof; and all and every person and persons so licensed as aforesaid, having, keeping, or using any such house or place for slaughtering horses, shall and is and are hereby directed and required to permit and suffer any such inspector as aforesaid, at all times in the day and night, but if in the night, then in the presence of a constable, to enter into and inspect such house or place, and also any stable, building, shed, yard, or premises belonging thereto, and freely to examine, search for, and see any horse, mare, gelding, foal, filly, ass or mule, bull, cow, ox, heifer, calf, sheep, hog, goat, or other cattle then and there being, and to take such account as hereinbefore directed.

Persons bringing cattle refusing to give an account of themselves, &c., may be carried before a justice.

7. And be it further enacted, that in case any person or persons who shall offer to sale or shall bring any horse, mare, gelding, foal, filly, ass, mule, bull, cow, ox, heifer, calf, sheep, hog, goat, or other cattle to any person or persons keeping such slaughtering house or place as aforesaid to be slaughtered or killed, or being dead to be flayed or skinned, shall not be able or shall refuse to give a satisfactory account of himself, herself, or themselves, or of the means by

which the same came into his, her, or their possession; or if there shall be any reason to suspect that such horse, mare, gelding, foal, filly, ass, mule, bull, cow, ox, heifer, calf, sheep, hog, goat, or other cattle is or are stolen, or otherwise unlawfully obtained, it shall and may be lawful for the person or persons keeping such slaughtering house or place as aforesaid to whom the same shall be brought or offered to sale, and for his, her, or their servants, agents, or assistants, and also for the said inspector or inspectors, or his or their servant or servants as aforesaid, to seize and detain such person or persons, and also every such horse, mare, gelding, foal, filly, ass, mule, bull, cow, ox, heifer, calf, sheep, hog, goat, or other cattle so brought or offered to sale as aforesaid, and to deliver such person or persons, as soon as conveniently may be, into the custody of a constable or other peace officer, who shall and is hereby required immediately to convey such person or persons before a justice of the peace for the county, riding, division, city, liberty, or place where the offence shall be committed; and if such justice shall, upon examination and inquiry, have cause to suspect that such horse, mare, gelding, foal, filly, ass, mule, bull, cow, ox, heifer, calf, sheep, hog, goat, or other cattle is or are stolen or unlawfully obtained, it shall and may be lawful for such justice to commit such person or persons into safe custody for any time not exceeding the space of six days, in order to be further examined; and if upon either of the said examinations such justice shall be satisfied or have reason to believe that such horse, mare, gelding, foal, filly, ass, mule, bull, cow, ox, heifer, calf, sheep, hog, goat, or other cattle is or are stolen or illegally obtained, the said justice is hereby authorised and required to commit the person or persons so bringing or offering the same to sale to the common gaol or house of correction of the county, riding, division, city, liberty, or place wherein the offence shall be committed, there to be dealt with according to law.

Sec. 7.

Justice may
commit sus-
pected
persons.

8. And be it further enacted, that if any person or persons keeping or using any such slaughtering house or place as aforesaid shall, at any time from and after the twentieth day of July, One thousand seven hundred and eighty-six, slaughter any horse, mare or gelding, foal or filly, ass or mule, or any bull, cow, heifer, ox, calf, sheep, hog, goat, or other cattle for any other purpose than for butcher's meat, or shall flay any horse, mare, gelding, foal, filly, ass, mule, bull, cow, heifer, ox, calf, sheep, hog, goat, or other cattle brought dead to such slaughtering-house or other place without taking out such licence or without giving such notice as aforesaid, or shall slaughter, kill, or flay the same at any time or times other than and except within the hours hereinbefore limited, or shall not delay slaughtering or killing the same, according to the direction of such inspector so authorised to prohibit the same as aforesaid, such person or persons so offending in either of the said cases, being thereof convicted, shall be adjudged, deemed, and taken to be guilty of felony, and shall be punished by fine and imprisonment, and such corporal punishment by public or private whipping, or shall be transported beyond the seas for any time not exceeding seven years, as the court before whom such offender or offenders shall be tried and convicted shall direct.

Persons
slaughtering
horses, &c.,
without
licence, &c.
guilty of
felony.

9. And whereas divers ill-disposed persons keeping such slaughtering houses and places as aforesaid have, in order to prevent inquiry and detection, made a practice of throwing the hides of horses and other cattle into lime-pits, or otherwise immersing in or rubbing the same with lime or some other corrosive matter: Be it therefore

Persons
destroying
hides, &c.,
to be deemed
guilty of mis-
demeanors.

Sec. 9. enacted by the authority aforesaid, that if any person or persons keeping or using any such slaughtering house or place as aforesaid shall, at any time from and after the twentieth day of July, One thousand seven hundred and eighty-six, throw into any lime-pit or lime-pits, or otherwise immerse in lime or any preparation thereof, or rub therewith or with any other corrosive matter, or destroy or bury the hide or hides, skin or skins, of any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle by him, her, or them slaughtered, killed, or flayed, or shall be guilty of any offence against this Act for which no punishment or penalty is expressly provided or declared, such person or persons, being convicted thereof, shall be adjudged, deemed, and taken to be guilty of a misdemeanor, and shall be punished by fine and imprisonment, and such corporal punishment by public or private whipping as the court before whom such offender or offenders shall be tried and convicted shall direct.

Persons making false entries liable to penalty, &c.

10. And be it further enacted, that if any person or persons so licensed as aforesaid shall make or cause to be made any false entry in any such book by him, her, or them to be kept as aforesaid of any matter or matters, thing or things, so required by him, her, or them to be made in such book as aforesaid, he, she, or they being convicted thereof, upon the oath of two credible witnesses, before any one justice of the peace for the county, riding, franchise, or district wherein such slaughtering house or place shall be situated (which said oath the said justice is hereby authorised and required to administer), shall for every such offence forfeit any sum not exceeding twenty pounds, . . . to be levied by distress and sale of the goods and chattels of such offender or offenders, by warrant under the hand and seal of such justice (the surplus arising from such distress and sale, after the deduction of the charges thereof, to be restored), one moiety thereof to be paid to the informer, and the other moiety thereof to be forthwith paid or transmitted by the said justice to the overseers of the poor, or one of them, for the use of the poor of the parish wherein such offender or offenders shall reside; and in case such offender or offenders shall not have effects to the amount of the said penalty, it shall be lawful for such justice, after sale and application as aforesaid of such effects as shall be found, to commit him, her, or them to the House of Correction, there to be confined to hard labour.

Words repealed by Stat. Law Revision Act, 1892.

11. (*Repealed by Statute Law Revision Act, 1892.*)

Inspectors' books to be produced at the quarter sessions.

12. And be it further enacted, that the book and books of all and every the inspector and inspectors of every parish wherein any such slaughtering house or place shall stand or be situated shall be produced at every general quarter sessions of the peace to be holden in and for the county wherein any such licence shall be granted, and delivered to the justices of the peace at such general quarter sessions assembled, then and there to be examined by them as they shall think fit.

Penalty on persons lending houses for the purpose of slaughtering.

13. And be it further enacted, that if any person or persons shall occasionally lend any house, barn, stable, or other place for the purpose of slaughtering or killing any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle which shall not be killed for butcher's meat, without taking out such

licence as aforesaid, and shall be thereof convicted before any justice of the peace for the county, riding, city, town, district, division, or liberty wherein such person or persons shall reside, upon the oath of two credible witnesses, he, she, or they shall forfeit, upon conviction, for every such offence any sum not exceeding twenty pounds, . . . one moiety thereof to be paid to the informer, and the other moiety to the poor of the parish where the offence shall be committed; and which said last-mentioned moiety shall, upon payment thereof, be immediately transmitted by the justice so convicting to the overseers of the poor of the said parish, or one of them; and in case such penalty shall not be forthwith paid such justice shall commit the offender to the common gaol or House of Correction. . . .

Sec. 13.

Words repealed by Stat. Law Revision Act, 1892.

Words repealed by Stat. Law Revision Act, 1892.

14. Provided always, that this Act shall not extend to any currier, felt-maker, tanner, or dealer in hides who shall kill any distempered or aged horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle, or purchase any dead horse, mare, gelding, colt, filly, ass, mule, ox, cow, heifer, calf, sheep, hog, goat, or other cattle for the *bond fide* purpose of selling, using, or curing the hide or hides thereof in the course of their respective trades, nor to any farrier employed to kill aged and distempered cattle, nor to any person or persons who shall kill any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle of their own or other cattle, or purchasing any dead horse or other cattle to feed their own hounds or dogs, or giving away the flesh thereof for the like purpose.

Act not to extend to curriers, &c., killing distempered horses, &c.

15. And be it further enacted, that if any collar-maker, currier, felt-maker, tanner, or dealer in hides, or farrier or other person shall, under colour of their respective trades or occupations, knowingly or willingly kill any sound or useful horse, gelding, mare, foal, or filly, or boil or otherwise cure the flesh thereof for the purpose of selling the same, such collar-maker and other tradesman or person shall be deemed and taken to be an offender within the meaning of this Act, and shall for every such offence forfeit any sum not exceeding twenty pounds. . . .

Collar-makers, &c., killing sound horses, &c., liable to penalty.

16. (*Repealed by Statute Law Revision Act, 1892.*)

17. (*Repealed by Statute Law Revision Act, 1871.*)

18. (*Repealed by 56 and 57 Vict., c. 61.*)

THE KNACKERS ACT, 1844.

7 & 8 VICT., c. 87.

An Act to amend the Law for Regulating Places kept for Slaughtering Horses.* [9th August, 1844.]

WHEREAS by an Act passed in the twenty-sixth year of the reign of His Majesty King George the Third, and also by an Act passed in the sixth year of the reign of his late Majesty King William the

* This Act was repealed as to London by the Public Health (London) Act, 1891.

Sec. 1. Fourth, provision was made for the regulation and inspection of houses and places kept for the purpose of slaughtering horses ; And whereas it is expedient to make further provision for the better and more effectual regulation and inspection of such houses and places : Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, that every licence which shall after the passing of this Act be granted under or by virtue of the said Act of the twenty-sixth year of King George the Third, authorising any person to keep or use any house or place for the purpose of slaughtering or killing any horse or other cattle (not killed for butcher's meat), shall be granted, and shall continue in force for a period not exceeding one year from the date at which the same was granted, determinable as hereinafter provided : Provided nevertheless, that in the case of the renewal of any such licence to any person to whom any such licence may have been previously granted as aforesaid it shall not be necessary for such person to obtain or produce to the justices at such general quarter sessions of the peace a certificate under the hands and seals of the minister, churchwardens, overseers, or householders, as required by the said last-mentioned Act.*

New licences
to be annual.

Justices in
quarter
sessions
may cancel
licences.

2. And be it enacted, that it shall be lawful for the justices* assembled at any general quarter sessions of the peace to be holden for any county, upon application and complaint made to them in writing by any person, and upon due proof being made to them that the party so complaining had given fourteen days' previous notice in writing thereof to the clerk of the peace for such county, and also to the party complained against, and upon due proof to their satisfaction that any person so licensed as aforesaid has been guilty of any breach or violation of the said two several hereinbefore recited Acts or either of them, or of this Act, or any part or parts thereof respectively, to cancel and wholly put an end to any and every licence which may have been granted to the person or persons so complained against, and from thenceforth the same shall be of no force or effect.

Persons
wantonly or
cruelly ill-
treating any
horse to be
liable to
penalty.

3. And be it enacted, that if any such licensed or other person shall wantonly or cruelly beat, ill-treat, abuse, wound, or torture any horse or other cattle in any house, pound, stable, or other place in the occupation or use of such licensed person, every such person shall for every such offence, on conviction thereof, forfeit and pay a sum of money not exceeding five pounds.

Power for
constables
to enter
licensed
places.

4. And be it enacted, that it shall be lawful for any constable from time to time, and as often as he shall think fit, at all reasonable times in the daytime, by authority of this Act, either alone or accompanied by any inspector appointed or to be appointed under the first-recited Act, to enter upon and view and inspect all and every the houses, stables, sheds, yards, grounds, and premises for the keeping of which any such licence shall have been granted as aforesaid, and also to inspect or take an account of all or any of the horses or other cattle which shall from time to time be found upon such premises or any part thereof.

* By the Local Government Act, 1894, Section 27, the powers of the justices in relation to the licensing of knackers' yards within a county district is transferred to the district council of the district.

5. And be it enacted, that in case any person to whom any such licence shall be granted as aforesaid, or any other person, shall at any time or in any manner obstruct, hinder, molest, or assault any such inspector whilst in the discharge of his duty, or the exercise of his power or authority under or by virtue of the said first-recited Act or of this Act, every such offender shall, for every such offence, on conviction thereof, forfeit and pay such a sum of money not exceeding ten pounds, as any two or more justices before whom such offender shall be brought shall deem fit.

Penalty for obstructing inspectors.

6. And be it enacted, that in case any such inspector shall at any time be guilty of any neglect or violation of the duty required of him by law, then and in every such case such inspector shall, upon conviction, forfeit and pay for every such offence a sum of money not exceeding ten pounds.

Penalty for inspector neglecting his duty.

7. And be it enacted, that all offences against this Act, or any of the provisions thereof, shall and may be heard and determined before and by any two or more justices of the peace for the county within which the offence shall have been committed; and all penalties and forfeitures incurred thereby respectively shall and may be recoverable, with costs, before and awarded by any such justices, and shall be applied as follows; namely, such part as the justices shall think fit to the person who shall inform and prosecute for the same, and the remainders thereof to the sheriff or other proper officer of the county in which such conviction shall take place, for Her Majesty's use, and shall be returned to the court of quarter sessions, under the provisions of an Act passed in the third year of His late Majesty King George the Fourth, intituled An Act for the more speedy return and levying of fines, penalties and forfeitures, and recognizances estreated; and in case of non-payment of any such penalty or forfeiture respectively it shall and may be lawful for such justices forthwith to commit the offender to the common gaol. . . .

Offences may be heard by two justices.

Penalties, how to be recovered and applied.

3 G. 4, c. 46.

8. And be it enacted, that the prosecution of every offence punishable under this Act shall be commenced within three calendar months next after the commission of the offence, and not otherwise. . . .

Words repealed by Summary Jurisdiction Act, 1884. Limitation as to summary proceedings. Words repealed by Stat. Law Revision Act (No. 2), 1874. Appeal to quarter sessions. Words repealed by Summary Jurisdiction Act, 1884.

9. And be it enacted, that any person who shall think himself aggrieved by any summary order or conviction made by any justice or justices of the peace under the authority of this Act may appeal to the justices of the peace at the next general or quarter sessions of the peace; . . . and it shall be lawful for the justice or justices of the peace by whom such order or conviction shall have been made to bind over the witnesses who shall have been examined in sufficient recognizances to attend and be examined at the hearing of such appeal, and that every such witness, on producing a certificate of his being so bound under the hand of the justice or justices, shall be allowed compensation for his time, trouble, and expenses in attending the appeal, which compensation shall be paid in the first instance by the treasurer of the county, in like manner as in cases of misdemeanor, under the provisions of an Act passed in the seventh year of the reign of King George the Fourth intituled, "An Act for improving the Administration of Criminal Justice in England;" and in case the appeal shall be dismissed, and the order or conviction affirmed, the reasonable expenses of all such witnesses attending as aforesaid, to be ascertained by the court, shall be repaid to the treasurer of the county by appellant.

7 G. 4, c. 64.

Meaning of certain words used in this Act.

10. And be it enacted, that the words hereinafter mentioned, which in their usual signification have a more restricted or different meaning, shall in this Act (except where the nature of the provisions or the context of the Act shall exclude such construction) be interpreted as follows (that is to say): the word "county" shall include city, town, borough, cinque port, riding, liberty, or division; the word "horse" shall include mare, gelding, mule, pony, colt, or filly; the word "cattle" shall include bull, ox, cow, steer, heifer, calf, ass, sheep, lamb, goat, pig, or any other domestic animal; the word "constable" shall include headborough, peace officer, or police officer; and every word importing the singular number only shall extend and be applied to several persons and things as well as to one person or thing; and every word importing the masculine gender only shall extend to a female as well as a male.

LIGHTING AND WATCHING ACT, 1833.

3 & 4 WILL. IV, C. 90.

An Act to repeal an Act of the Eleventh Year of His late Majesty King George the Fourth, for the Lighting and Watching of Parishes in England and Wales, and to make other Provisions in lieu thereof. [28th August, 1833.]

WHERE this Act was adopted in any district which after the passing of the Public Health Act, 1875, became, or formed part of, an urban district, this Act was "superseded" by the Public Health Act, 1875 (*see* Public Health Act, 1875, Section 163, page 364).

Sections 1 to 3 repealed by 37 and 38 Vict., c. 35.

Act applicable to all parishes.

4. And whereas it is desirable to make provision for the lighting and watching of the several parishes in England and Wales: Be it enacted, that this Act, and the several provisions thereof, shall apply to and may be adopted, under and subject to the regulations herein contained, by all or any or either of the parishes in England and Wales.

Words repealed by Stat. Law Revision (No. 2) Act, 1888. On application of three rated inhabitants, church-wardens to convene a meeting in vestry to determine whether the provisions of this Act shall be adopted.

5. . . From and after the passing of this Act, upon the application in writing of three or more of the ratepayers of any parish,* it shall be lawful for the churchwardens thereof, and they are hereby required, within ten days after the receipt of such application as aforesaid, to appoint and notify a time and place for a public meeting of the ratepayers† of the said parish, for the purpose of determining whether the provisions in this Act contained shall be adopted and carried into execution in the said parish: Provided always, that the time appointed for holding the said meeting shall not be less than ten days and not more than twenty-one days from the time of the said application so being delivered to them as aforesaid, and that notification of

* Adopted by a district chapelry; nullity, *Reg. v. Kingswinford*, 3 E. and B. 689; 23 L. J. M. C. 74. Adopting for part of a parish *Potton v. Brown*, 10 L. T. 525; *Wilkinson v. Gray*, 9 J. P. 71.

† Under Local Government Act, 1894, Section 7, the parish meeting will in future decide whether the provisions of this Act shall be adopted in rural parishes.

the time and place of meeting shall be made by forthwith affixing a notice on the principal outer door of every parish church or chapel situate within such parish, or on the usual place of affixing notices relating to the parochial affairs of any such parish, and also by publication of the same in the parish church or chapel on the Sunday previous to the day appointed for holding such meeting, during or immediately after divine service.

Sec. 5.

6. . . . * Such person as may be elected by the ratepayers present shall preside as chairman† at such meetings; and if any controversy shall arise at any such meeting as to the qualification or right of voting or eligibility of any person claiming to vote, or as to the qualification or eligibility of any candidate, such controversy shall be determined by the chairman presiding at such meeting.

Chairman to be elected, who shall determine any controversies.

7. . . . * The chairman who shall preside at any meeting assembled as herein directed shall read or cause to be read the requisition whereupon the meeting shall have been summoned, and shall require the persons assembled thereat to determine, by majority of votes, as herein mentioned, whether the provisions of this Act, as herein set forth, shall or shall not be adopted and acted upon within such parish: Provided nevertheless, that it shall be lawful for the majority of the ratepayers present‡ to adjourn such meeting from time to time

Chairman to read requisition, and require persons to determine whether Act shall be adopted.

8. . . . * If at any such meeting it shall be determined by a majority consisting of two thirds of the votes of the ratepayers present at such meeting that the provisions of this Act shall be adopted, then and in such case such provisions shall from thenceforth take effect and come into operation in such parish; and it shall forthwith be determined that a certain number, not being more than twelve nor less than three inspectors shall be elected to carry such purposes into effect; and the number of inspectors so determined upon shall be elected in manner herein mentioned.

If meeting determine to proceed, the provisions of this Act shall thenceforth take effect.

9. . . . * The ratepayers of such parish shall at their first meeting, or at some adjournment thereof, and so on from time to time in every succeeding year at a meeting to be called for that purpose in manner herein directed, fix and determine the total amount of money which the inspectors shall have power to call for in any one year, in order to carry into effect the provisions of this Act, such sum to be raised in the manner herein directed, upon the full and fair annual value of all property rateable for the relief of the poor within such parish, such full and fair annual value to be computed according to the last valuation for the time being acted upon in assessing the Poor's Rate for the said parish: Provided nevertheless, that any five rated inhabitants, qualified to vote as herein mentioned, may, at such meeting or adjournment thereof, in writing given to the chairman of the said meeting, demand a poll § to be taken of the ratepayers qualified to vote upon the question as to whether this Act and the provisions thereof, or any part thereof, shall be adopted in such parish, and also

Inhabitants to fix amount of money to be raised.

Poll may be demanded as to adoption of Act.

* Repealed by Statute Law Revision (No. 2) Act, 1888.

† Chairman need not be a ratepayer. *Reg. v. Middlesex J. J.*, 22 L. J. M. C. 106; 21 L. T. 131.

‡ Majority of those present, not of those voting. *In re Eynsham*, 18 L. J. Q. B. 210.

§ A bare majority was held sufficient in *Beechey v. Quentery*, 11 L. J. Ex. 420; 10 M. and W. 65.

Sec. 9. as to the amount of money * to be raised in the succeeding year for the purposes thereof, and the number of inspectors to be elected as determined at such meeting, and which said demand of a poll the said chairman is required forthwith to deliver to the churchwardens of the said parish.†

Notice of
poll to be
given by
church-
wardens.

10. . . .‡ The said churchwardens of the said parish shall, on the first Sunday next after the receipt of such demand of a poll, affix or cause to be affixed a notice on the principal outer door of every parish church or chapel situate within such parish, or on the usual place of affixing notices relating to parochial affairs of any such parish, specifying some day, not earlier than ten days and not later than twenty-one days after such Sunday, and at what place or places within the said parish the ratepayers are required to signify their votes for or against the adoption of this Act, or such part thereof as may have been agreed upon at the said meeting, as well as with respect to the annual amount of money to be raised in the succeeding year for the purposes thereof, and the number of inspectors to be elected as determined at such meeting, which votes shall be received on two successive days, commencing at eight of the clock in the forenoon and ending at four of the clock in the afternoon of each day; and the said notice shall be to the following effect:

Form of
notice.

“The churchwardens of this parish [*insert the name of the parish*] having received a demand for a poll, duly signed according to the provisions of an Act of the fourth year of the reign of King William the Fourth, intituled ‘An Act, &c. [*setting out the title of the Act*], the ratepayers of this parish of [*insert the name of the parish*] are hereby required, all and each of them, on the _____ day of _____ next, and the following day, to signify to the said churchwardens, by a declaration, either printed or written, or partly printed or partly written, addressed and delivered to one of the churchwardens at [*insert here the place*], their votes for or against the adoption of the aforesaid Act, or so much thereof as relates to watching or lighting [*as the case may be*], the amount of the money to be raised in the succeeding year for the purposes thereof being [*here insert the sum agreed upon at the meeting*], and the number of inspectors to be elected [*insert the number also agreed on*], such sum and such number of inspectors being fixed and determined upon at a meeting of the ratepayers called pursuant to the said Act.

(Signed)

Churchwardens.”

Form of
declaration.

11. . . .‡ The said declaration shall be to the following effect:
I, A. B., of _____ Street [or _____ place or house]
in this parish of _____ vote [for or against, *as the case may be*] the adoption of the Act of the fourth year of the reign of His Majesty King William the Fourth, intituled ‘An Act, &c. [*set out title of the Act*], or so much thereof as relates to watching or lighting [*as in the notice*], the amount of the money to be raised in the succeeding year for the purposes thereof being [*as in notice*], and the number of inspectors to be elected [*as in notice*].”

* As to the amount see *Beechey v. Quentery*, 11 L. J. Ex. 420.

† Town council cannot abandon the Act after adopting it. *Quick v. St. Ives*, 2 L. T. n.s. 214; 8 W. R. 414. But see Section 15.

‡ See note to Section 8.

12. . . * The said churchwardens shall carefully examine the votes to them delivered as aforesaid, and shall compare them with the last rate made for the relief of the poor of the said parish, and shall be empowered to call before them and examine any parish officer touching the said votes, or any ratepayer so giving his vote, and after a full and fair summing up of the said votes shall, by public notice according to the form and manner hereafter prescribed, declare whether or not two thirds of the votes given have been given in favour of the adoption of the said Act (or so much thereof as relates to watching or lighting, as in the notice), and also as to the sum of money to be raised in the succeeding year, and the number of inspectors to be elected to be (as in the notice): Provided always, that the whole number of persons voting shall be a clear majority of the ratepayers of the parish: Provided also, that in case of a poll being demanded as aforesaid the adoption or non-adoption of this Act, with the sum to be raised, and the number of inspectors to be elected as aforesaid, shall be decided by such number of votes as aforesaid: Provided also, that the expenses incurred by the churchwardens in calling such meeting, giving the notices as aforesaid, and in taking such poll, shall be paid out of the rate collected for the relief of the poor in the said parish.

Churchwardens to examine the votes, and declare whether two thirds of them are in favour of adopting this Act.

13. Provided always that any of the ratepayers of the aforesaid parish, not exceeding five together, may inspect, at or in the vestry room or in some convenient place within the same parish, and they are hereby empowered to inspect, the votes so given for and against the adoption of this Act, with the sum to be raised, and number of inspectors to be elected as aforesaid, at all seasonable times within one month after such notice shall have been given; and the churchwardens of the said parish are hereby required carefully to preserve the said votes, and freely to permit and allow the examination thereof by the aforesaid ratepayers of the said parish at all seasonable times within the period aforesaid.

Ratepayers may inspect votes.

14. . . * No person shall be deemed a ratepayer, or be entitled to vote or do any other act, matter, or thing as such, under the provisions of this Act, unless he or she shall have been rated to the relief of the poor for the whole year immediately preceding his so voting or otherwise acting as such ratepayer, and shall have paid all the parochial rates, taxes, and assessments due from him or her at the time of so voting or acting, except such as have been made or become due within the six months immediately preceding such voting.

No person to vote unless he has been rated one year.

15. . . * Notice of the adoption of this Act (or any part thereof, specifying it), with the amount of the sum to be raised in the succeeding year, and the number of inspectors to be elected by any parish, shall be forthwith given by the churchwardens for the time being of the said parish by affixing a notice of the same to the principal door of every church and chapel † within the said parish, or on the usual place of affixing notices relating to the parochial

Notice of adoption of this Act.

* See note to Section 8.

† Not necessarily to a Dissenting meeting-house. The notice must be affixed within a reasonable time. *Reg. v. Deverell*, 3 E. and B. 372; 23 L. J. M. C. 121. See also *Ex parte Warblington*, 18 Jur. 494.

Three churches, notice affixed to one insufficient. *Reg. v. Whipp*, 12 L. J. M. C. 64; 7 J. P. 656.

Sec. 15.

Act may be
abandoned.

affairs of such parish; and in such case the provisions of this Act shall from thenceforth take effect and come into operation in such parish: Provided always, that it shall be lawful for the inhabitants present at any meeting called in manner herein directed, at any time after the expiration of three years from the time when the provisions of this Act shall have been adopted, to determine that the provisions of this Act, shall from and after a day to be fixed upon at such meeting, cease to be acted upon;* in which case, from and after such last-mentioned day the provisions of this Act shall no longer be in force in such parish: Provided nevertheless that the provisions in this Act contained shall remain and continue in force for the purpose of collecting and recovering any rate which may have been previously made; and if on the abandonment and ceasing to act upon the provisions of this Act there shall be any balance in the hands of the said inspectors, after defraying the expenses incurred in carrying into effect the provisions of this Act, the said balance shall be paid over to the overseers of the poor of the said parish, to be applied in aid of the poor rates of the said parish.

If meeting
determine
against
adopting
this Act.

16. In case any such meeting convened as aforesaid, or in case of a poll having been demanded as aforesaid, a majority of two thirds of the votes as aforesaid, shall not have determined to adopt the provisions of this Act, it shall not be lawful for the inhabitants to meet again in less than one year from the period at which such meeting shall have been so convened as aforesaid.†

Mode of
electing
inspectors.

17. . . ‡ The inspectors herein mentioned shall be elected in manner following; (that is to say,) the churchwardens of any parish adopting the provisions of this Act shall, in the manner herein first directed, forthwith call a meeting of the ratepayers of such parish, and each candidate, being a person who shall reside within such parish, and who shall have been assessed or charged by the last rate made for the relief of the poor in respect of a dwelling-house or other tenement or premises of the annual value, according to the said rate, of fifteen pounds or more, shall be eligible to be elected an inspector for the purposes of this Act, and shall be proposed at the said meeting by some person duly qualified to vote thereat, and shall be seconded by some other person in like manner qualified; and if more candidates than the number of inspectors authorised to be elected shall be proposed, and a poll shall be demanded by any ten persons qualified to vote on behalf of any such candidates, then the chairman shall open and proceed with such poll, and in a book or books prepared for that purpose, which book or books the churchwardens are hereby required to cause to be prepared, shall enter or cause to be entered the name of all such candidates, and the name of every person duly qualified to be present and vote who shall desire to vote, together with his description and abode, and shall register the vote of every such person for every or any such candidate as every such person may respectively require; and if the votes of all the persons duly qualified and desirous to vote cannot be conveniently collected and registered by four of the clock of the same day upon which the

* See note † on page 322.

† Reg. v. Dunn, 7 E. and B. 220; 26 L. J. M. C. 74. *Wilkinson v. Gray*, 9 J. P. 71.

‡ Under the Local Government Act, 1894, Section 7 (7), the parish council will be the authority for the execution of this Act when adopted in a rural parish.

poll shall have been commenced, then the chairman shall at that hour adjourn such poll to the day next succeeding, unless such day shall be a Sunday, Christmas Day, or Good Friday, and in that case to the day following, and then proceed to collect and register the votes of all persons duly qualified and applying to vote: Provided nevertheless that the poll shall finally close at four of the clock on the day to which it shall have been adjourned, or sooner, provided all persons duly qualified and desirous to vote shall have voted, and after the lapse of one hour without any person offering to vote; and as soon after the close of the poll as may be possible the result thereof shall be declared at the place where the election may have been holden, and certified by the chairman to the overseers of the poor; and the said churchwardens shall be reimbursed all such reasonable charges and expenses as may be incurred in providing clerks and books, and otherwise in the performance of the duties hereby required of them by the candidates at the said election for the said office: Provided nevertheless that if the provisions of this Act are adopted at the meeting first called for that purpose, the said inspectors may be appointed at the same time by the ratepayers of such parish then present, unless a poll should be demanded, and if such poll should be demanded it shall be proceeded with as herein directed.

Sec. 17.

18. . . * In every parish adopting the provisions of this Act the inspectors shall, within one month next after the expiration of twelve calendar months from the day of such adoption, give notice to the churchwardens of the said parish that they are ready to produce their accounts and vouchers for the previous year, and thereupon the said churchwardens shall give due notice, in the manner required with respect to the first meeting to be held under this Act, that a meeting of the ratepayers of the said parish will be held at an hour and place in the said notice to be mentioned, on some day, not being a Sunday, within ten days from the receipt of such notice, for the purpose of the said inspectors producing such accounts and vouchers, and for the election of inspectors for the execution of this Act, and for determining the amount of the money to be raised for the purposes of this Act for the current year; and in every future year such meeting shall, for the purposes aforesaid, be held on the same day in the corresponding month, except such day should fall on a Sunday, and then on the day following.

At the end of twelve months the inspectors to give notice to churchwardens that they are ready to produce their accounts, and churchwardens to call a meeting for that purpose.

Meetings in future years.

19. . . * At such annual meeting the said inspectors shall produce their accounts and vouchers of all moneys received and paid by virtue of this Act for the previous year; and a duplicate or copy of such accounts verified on oath before any two justices by the said inspectors or any two of them, shall be deposited with the said inspectors, and shall be open at all reasonable times to the inspection of all parties interested; and at such annual meeting one third of the inspectors, or as near thereto as the number appointed will admit of, shall go out of office in rotation; and in place of such inspectors so going out of office a like number of other inspectors shall be elected: Provided always that any of such outgoing inspectors shall be re-eligible, and may be re-elected, and shall in such case continue to act and remain in office, anything herein contained to the contrary notwithstanding.

Inspectors at such meeting to produce accounts; one third of them to go out of office and others elected.

* See notes to Sections 5, 8, and 17.

Chairman to decide questions as to eligibility, &c.

20. . . * The chairman appointed to preside at such annual meeting shall proceed in such manner as the chairman at the first meeting to be held under this Act is hereinbefore directed to proceed at the election of the inspectors to be first appointed for the execution of this Act, and shall decide on questions which may arise as to the eligibility or qualification of any person whatsoever, and as to all matters whatsoever connected with the said election, and shall declare the result of the same as aforesaid.

How vacancies in the number of inspectors shall be filled up.

21. . . * In case any inspector shall die, or become disqualified by change of residence or otherwise, or shall neglect to act, and in case of any casual vacancy happening in any manner whatever, so that the number of inspectors shall be reduced to less than three, notice shall be immediately given by the acting inspectors to the churchwardens of the parish, who shall forthwith, in the manner directed by this Act, call a meeting of the rated inhabitants as aforesaid for the purpose of filling up such vacancy or vacancies.

Inspectors to meet monthly.

22. . . * The inspectors for executing this Act in any parish shall meet on the first Monday in every month, at noon, at some convenient place or office previously publicly notified; and at such monthly meeting it shall be lawful for any inhabitant rated to the relief of the poor of any such parish to appear there, and prefer any matter of complaint which he may think proper to make concerning any matter or thing done by force or in pursuance of or under pretence of the provisions of this Act.

Special meetings of inspectors.

23. . . * Such inspectors shall meet at all other times and so often as at any previous meeting shall be determined upon; and it shall be at all times competent for any one inspector, when three inspectors only shall have been appointed, and in all other cases for any two inspectors, by writing under his or their hands, to summon, upon at least forty-eight hours' notice, the inspectors for any special purpose therein named, and for such time as shall be therein named; and that at all meetings of such inspectors any number not less than one third of the whole number when more than three inspectors shall have been appointed, and when only three inspectors shall have been appointed then not less than two inspectors, shall constitute a quorum for transacting business.

Quorum.

Inspectors to appoint officers during pleasure, and rent an office for the transaction of their business.

24. . . * It shall be lawful for the said inspectors elected in any parish under this Act for the time being, and they are hereby authorised and required, to appoint, during pleasure, such treasurer and other officers as they shall think necessary for effecting the purposes of this Act, and to remove and displace the same, and to hire and rent a sufficient office or house or room for holding their meetings and transacting their business, and also to appoint suitable salaries, wages, and allowances to and for such treasurer and other officers, and also to agree for a reasonable rent for such office or house or room, and to pay such salaries, wages, and allowances, and such rent, out of the moneys received by the inspectors under the authority of this Act: Provided nevertheless that no person shall at the same time hold two offices or situations under the said inspectors.

Security to be taken from treasurer.

25. . . * It shall be lawful for the said inspectors, or any two or more of them, and they are hereby required, to take security from the treasurer to be appointed by virtue of this Act for the due execution

* See notes to Sections 5, 8, and 17.

of his office of treasurer, according to the true intent and meaning of this Act, which security shall be to the full amount of the sum likely to be in the hands of the said treasurer at any one time; and in case any such treasurer shall neglect or refuse for the space of three weeks next after his appointment to give or offer such security to the satisfaction of the said inspectors, then the appointment of every such person so neglecting or refusing shall be null and void to all intents and purposes, and the said inspectors shall within three weeks then next assemble and appoint some other fit and proper person to the office of treasurer, instead of the person so refusing or neglecting as aforesaid, and shall so assemble and appoint from time to time until security shall be given to their satisfaction as aforesaid.

Sec. 25.

26. . . * Every such treasurer and other officer appointed by virtue of this Act shall under his respective hand, and at such time or times and in such manner as the said inspectors shall direct, deliver to the said inspectors, or such person as they shall appoint, true and perfect accounts in writing of all matters and things committed to his charge by virtue of this Act, and also of all moneys which shall have been by such officer received by virtue of or for the purposes of this Act, and of how much thereof shall have been expended and disbursed, and for what purposes, together with proper vouchers for such payments; and that every such officer shall pay all such moneys as shall remain due from him to the treasurer for the time being, or to such person or persons as the said inspector shall appoint to receive the same; and if any such treasurer, officer, or other person shall refuse or neglect to make and render such account, or to produce and deliver up the vouchers relating to the same, or to make payments as aforesaid, or shall refuse or wilfully neglect to deliver to the said inspectors or to such person or persons as they shall appoint to receive the same, within three days after being thereunto required by the said inspectors by notice in writing under the hands and seals of any two or more of the said inspectors given to or left at the last or usual place of abode of such officer, all books, papers, and writings in his custody or power relating to the execution of this Act, or to give satisfaction to the said inspectors or such other person or persons as aforesaid respecting the same, then and in every such case, upon complaint made by the said inspectors, or by such person or persons as they the said inspectors shall appoint for that purpose, of any such refusal or wilful neglect as aforesaid, to any justice of the peace, such justice may and he is hereby authorised and required to issue a summons under his hand and seal for the officer so refusing or neglecting to appear before two justices of the peace; and upon the said officer appearing, or having been so summoned and not appearing without some sufficient and reasonable excuse, or not being found, it shall be lawful for the said justices to hear and determine the matter in a summary way; and if, upon confession of the party, or by the testimony of any credible witness or witnesses upon oath (which oath such justices are hereby empowered to administer), it shall appear to such justices that any moneys remain due from such officer, such justices may and they are hereby authorised and required, upon non-payment thereof, by warrant under their hands and seals, to cause such money to be levied by distress and sale of the goods and chattels of such officer; and if no goods and chattels of such officer shall be found sufficient to answer and

Treasurer
and officers
to account.Proceedings
against
officers ne-
glecting to
account.

* See notes to Section 8.

Sec. 26. satisfy the said money, and the charges of distraining and selling the said goods and chattels, or if it shall appear to such justices that such officer had refused or wilfully neglected to render and give such account, or to produce the vouchers relating thereto, or that any books, papers, or writings relating to the execution of this Act remained in the hands or in the custody or power of such officer, and he refused or wilfully neglected to deliver or give satisfaction respecting the same as aforesaid, then and in every such case such justices shall and they are hereby required to commit such offender to the common gaol or House of Correction for the county, city, or place where such offender shall be or reside, there to remain, without bail or mainprise, until he shall have given a true and perfect account as aforesaid, or until he shall have paid such moneys as aforesaid, or compounded with the said inspectors for such money, and shall have paid such composition in such manner as they shall appoint (which composition the said inspectors are hereby empowered to make and receive), and until he shall have delivered up such books, papers, and writings, or given satisfaction in respect thereof, to the said inspectors or to such other person or persons as aforesaid; but no such offender shall be kept or detained in such common gaol or House of Correction for want of sufficient distress by virtue of this Act for any longer space or time than three calendar months.

Commitment of offender not to discharge his sureties. 27. . . . * No prosecution or commitment, under the provisions of this Act, of any treasurer or other officer or person to be appointed under the powers of this Act, shall acquit or discharge any surety or security that shall or may have been taken by or given to the said inspectors for the due and faithful execution of his or their office, or the payment of the moneys received or to be received by him or them respectively.

Officers taking any fee or reward besides the salary or fees appointed to forfeit £50. 28. . . . * If any person who shall be employed as treasurer, or any other officer or servant who shall be in any wise employed by the said inspectors for putting this Act or any of the powers thereof into execution, shall exact, take, or accept any fee or reward whatsoever other than such salaries, allowances, and rewards as are appointed by this Act, or shall be appointed, allowed, and approved of by the said inspectors, for or on account of anything done or to be done by virtue of this Act, or on any account whatsoever relative to putting this Act into execution, or shall in any wise be concerned or interested in any bargain or contract made or to be made by the said inspectors; and no person, during the time he holds the office of inspector, shall accept or hold any office or place of trust created by virtue of this Act within the said parish, or shall be concerned directly or indirectly in any contract with the said parish; every such person so offending shall be incapable of ever serving or being employed under this Act, and shall over and above forfeit the sum of fifty pounds to any person or persons who shall sue for the same.

Inspectors may sue and be sued in the name of any one of them. 29. . . . * The said inspectors may sue and be sued in the name of any one of the inspectors for the time being; and all actions or suits that may be necessary or expedient to be brought for the recovery of any penalty or sum of money due or payable by virtue of this Act, or for or in respect of any other matter or thing relating to this Act, may

* See notes to Sections 5, 8, and 17.

Sec. 29.

be brought in the name of any one of the said inspectors; and that no action or suit which may be brought, commenced, or prosecuted by or against the said inspectors, or any of them, by virtue or on account of this Act, shall abate or be discontinued by the death, resignation, or removal of such inspector, but such inspector shall be deemed plaintiff or defendant in any such action or suit (as the case may be): Provided also, that in all cases in which the inspector as aforesaid shall, in pursuance of this Act, be the plaintiff or defendant on the record in any action or actions, suit or suits, in which in effect the said inspectors shall be suing or sued in the name of such one inspector as aforesaid, he (although appearing as the plaintiff or defendant on the record) may and shall nevertheless (if not otherwise interested or objectionable) be a good examinable and competent witness in every action or suit either for or against the said inspectors; and all the affidavits of debt or service which may be necessary or expedient to be made preparatory to or in the prosecution or defence of any and every such action, suit, or proceeding shall and may be lawfully made by such one inspector, notwithstanding he shall be nominal plaintiff or defendant on the record as aforesaid: Provided also, that every or any such inspector in whose name any action or suit shall be commenced, prosecuted, or defended in pursuance of this Act shall always be reimbursed and paid out of the moneys to arise by virtue of this Act all such costs, charges, and expenses as he shall be put to or become chargeable with by reason of his being made plaintiff or defendant therein; and in case of his removal from office, or ceasing to act as such inspector, all such costs, charges, and expenses shall be paid by the inspector for the time being; and no inspector shall be personally answerable or liable for the payment of the same or any part of them, unless such action or suit shall arise in consequence of his own wilful neglect or default, or have been brought or commenced or be defended without the order or direction of the said inspectors.

30. . . * All acts, orders, and proceedings of the said inspectors at any of their meetings shall be entered in a book to be kept by them for that purpose, and shall be signed by two of the inspectors who were then present; and all such acts, orders, and proceedings shall then be deemed and taken to be original acts, orders, and proceedings; and such books shall and may be produced and read as evidence of all such acts, orders, and proceedings upon any appeal or trial or information, or any proceedings, civil or criminal, and in any court or courts of law or equity whatsoever.

Proceedings of inspectors to be entered in books, which shall be good evidence.

31. . . * The said inspectors shall and they are hereby required from time to time to order and direct a book or books to be provided and kept, in which book or books shall be entered true and regular accounts of all sums of money received, paid, and expended for or on account of the purposes of this Act, and of the several articles, matters, and things for which such sums of money shall have been disbursed and paid; and such book or books shall at all reasonable times be open to the inspection of the said inspectors and of every inhabitant rated to the relief of the poor of the parish adopting the provisions of this Act, without fee or reward; and the said inspectors and other persons aforesaid, or any of them, shall or may take copies of or extracts from the said book or books, or any part thereof,

Accounts to be kept.

* See notes to Sections 5, 8, and 17.

Sec. 31. without paying for the same; and in case the said inspectors shall refuse to permit or shall not permit the said persons aforesaid to inspect the same, or take copies or extracts as aforesaid, such inspector shall forfeit and pay any sum of money not exceeding five pounds for each default, to be levied and applied in manner hereinafter provided.

Inspectors to
issue an
order to
overseers
for payment
of money for
the purposes
of this Act.

32. . . * As soon as the inspectors have been elected as aforesaid, it shall be lawful for them, or any two or more of them, from time to time to issue an order under their hands to the overseers of the poor of any parish to which the provisions of this Act shall be extended, by which order† they shall require the said overseers to levy the amount mentioned in the said order.

Power to
collect rates.

33. . . * The overseers aforesaid shall, for the purpose of collecting, raising, and levying the rate necessary for the purposes of this Act, proceed in the same manner, and have the same powers, remedies, and privileges, as for levying money for the relief of the poor in the said parish: Provided always, that such owners‡ and occupiers of houses, buildings, and property § (other than land) rateable to the relief of the poor in any such parish shall be rated at and pay a rate in the pound three times greater|| than that at which the owners and occupiers of land shall be rated at and pay for the purposes of this Act: Provided also that the total amount of the sum to be collected, raised, and levied for the purposes of this Act within any one year shall not exceed such sum as shall have been agreed on by the inhabitants of the said parish as aforesaid, and that the said sum shall be assessed upon the full and fair annual value to which lands, houses, buildings, and other property within the said parish shall be rated or shall be rateable according to the last valuation made and acted upon for the rate for the relief of the poor within the said parish.

Land and
houses to be
rated sepa-
rately.

34. . . * Provided always that it shall be lawful for the overseers of the poor of any such parish, and they are hereby required, whenever, according to the rate made for the relief of the poor, one and the same person shall be rated in one sum in respect of land, and also of houses, buildings, and other property, to cause such land, and also such houses, buildings, and other property, to be separately assessed, and the sum hereby authorised to be levied shall be assessed accordingly: Provided always, that every courtyard, yard, or garden (such garden not being a market garden or nursery ground) shall be included in and make part of the assessment to

* See notes to Sections 5, 8, and 17.

† Not necessary for overseers to prove that the Act was properly adopted. Onus in first place rests on person disputing it. *Reg. v. Reynolds* (1893), 2 Q. B. 75.

‡ As to rating owners of small tenements, *Reg. v. Oxfordshire J. J.*, 22 L. T. 219.

§ User but not occupier of gas mains, *Southport v. Ormskirk* (C. A.) (1894), 1 Q. B. 196.

|| Meaning of "three times greater," *Reg. v. Somersetshire J. J.*, 31 L. T. 215; 22 J. P. 431; *Thursby v. Briercliffe, &c.* (1894), 1 Q. B. 567 (C. A. 1894 W. N. 63), coal mine is rightly rated at the higher rate. Wet dock held liable to the higher rate, *Peto v. West Ham*, 28 L. J. M. C. 240; 2 E. and E. 144. Not so a railway, *Reg. v. Midland Railway Company*, L. R. 10 Q. B. 389; 44 L. J. M. C. 137; 39 J. P. 359; 32 L. T. 753. Canal, towing path, and dry dock liable to the lower rate, *Reg. v. Neath*, L. R. 6 Q. B. 707; 40 L. J. M. C. 193; 24 L. T. 871.

be made on the house, buildings, or other property to which they may be respectively attached : Provided also, that such land, houses, buildings, and other property shall not in the whole be assessed at a higher amount than they were in the last rate made for the relief of the poor within the said parish. Sec. 34.

35. . . * If the overseers of the poor of any parish adopting the provisions of this Act shall go out of office before they shall have collected or levied the amount mentioned in the order issued under the hands of the said inspectors in pursuance of this Act, they shall deliver to the succeeding overseers, within seven days from the time they go out of office, a full and particular account in writing of the names of the parties from whom any money may be due on account of the rate made in pursuance of this Act, as well as the last order issued to them by the said inspectors ; and in such case the succeeding overseers shall have the like powers and remedies under this Act for the collecting and recovery thereof, and shall be liable to the same penalties and forfeitures in case of the non-payment to the said inspectors as their predecessors had or were liable to. Power of succeeding overseers to collect rate.

36. . . * The overseers of the poor of every parish adopting the provisions of this Act, to whom any such order as aforesaid shall be issued, shall pay over the amount mentioned in such order to the treasurer to be appointed in the said parish under this Act within three calendar months from the delivery of such order to one of the overseers, and shall keep the accounts of the said rate levied for the purposes of this Act separate and distinct from the accounts of the rates levied in the same parish for the relief of the poor ; and at the time of making any payment to the said treasurer the said overseers shall deliver to him a note in writing signed by them, specifying the amount so paid, which note shall be kept by the treasurer as a voucher for his receipt of that particular amount ; and the receipt of the said treasurer, specifying the amount paid to him by the overseers, shall be a sufficient discharge to the overseers for such amount, and shall be allowed as such in passing their accounts with their respective parishes. Overseers to pay amount to treasurer.

Receipt of treasurer to be a discharge to overseers.

37. . . * Where any persons other than the overseers of the poor shall by virtue of any office or appointment be authorised and required to make and collect or cause to be collected the rate for the relief of the poor in any parish to which all or any of the provisions of this Act shall be extended, such persons, by whatsoever title they may be called, shall be deemed to be overseers of the poor within the meaning of this Act, and to be included under and denoted by the words " Overseers of the Poor," for all the purposes of this Act, as fully as if they were commonly called or known by the title of overseers of the poor. Where other persons are authorised to collect poor's rates, such persons to be deemed overseers.

38. . . * In case the amount directed by such order as aforesaid to be paid by the overseers † in any parish to which all or any of the provisions of this Act shall be extended shall not be paid to the said treasurer within the time specified for that purpose in the said order, any justice of the peace, upon complaint thereof made to him by Overseers may be distrained upon for non-payment.

* See notes to Sections 5, 8, and 17.

† " Overseers " held to include churchwardens, Reg. v. Rye J J. 13 W. R. 142.

Sec. 38. the said treasurer or by any one of the inspectors, may and he is hereby authorised and required to issue a summons under his hand and seal for the said overseers so refusing or neglecting to pay such money as aforesaid to appear before two justices of the peace; and upon the said overseers appearing, or having been so summoned and not appearing, without some sufficient and reasonable excuse, or not being found, it shall be lawful for the said justices and they are hereby required, in case the said money is not paid, to issue their warrant for levying the amount, or so much thereof as may be in arrear, by distress and sale of the goods of all or any of the said overseers; and in case the goods of all the overseers shall not be sufficient to pay the same, the arrears thereof shall be added to the amount of the next levy which shall be directed to be made in such parish for the purposes of this Act, and shall be collected by the like method.

Watchmen,
&c., to be ap-
pointed, and
provided
with arms,
clothing, &c.

39. . . . The said inspectors shall from time to time appoint and employ such number of able-bodied watchhouse keepers, serjeants of the watch, watchmen, patrols, street-keepers, and other persons as they shall think sufficient for the proper protection of the inhabitants, houses and property, streets and other places within the limits of this Act, by day or by night, or by day and by night, and provide for the use of all such watchmen, watchhouse keepers, serjeants of the watch, patrol, and persons as aforesaid such clothing, arms, ammunition, and weapons, and shall assign to them such beats and rounds and duties, and appoint such hours for them to be on duty, and also such wages, rewards, and gratuities, or remunerations for their services, and also make such rules, orders, and regulations relative to such watchhouse keepers, serjeants of the watch, watchmen, patrols, street-keepers, and other persons, and their duties, as to the said inspectors shall seem meet, and also shall and may offer and give, as well to the said persons as to any other not specially employed by them, such gratuities and rewards for apprehending felons and others, offenders within the limit of this Act, as to them shall seem proper; and shall and may defray the expenses of prosecuting any such felons and offenders, for the protection of the inhabitants of any parish adopting the provisions of this Act, or in defending any of the said persons or other officers of the said inspectors in the execution of their duty, as they shall think proper; and the said wages, rewards, gratuities, and the costs of such prosecutions or defences, and all other expenses that may be incurred by the said inspectors for the protection and guard of the inhabitants, shall and may be paid by the said inspectors out of the moneys received in pursuance of this Act.

Watchmen,
&c., to deliver
up clothing
on removal,
&c.

40. . . . All such clothing, arms, ammunition, and weapons, so provided for the use of such watchmen, watchhouse keepers, serjeants of the watch, patrol, and persons as aforesaid, shall remain and continue the property of the inspectors for the time being, and in case of the resignation, removal, or death of any such watchmen, watchhouse keeper, serjeant of the watch, patrol, or person as aforesaid, shall be returned to the said inspectors; and in case of neglect or refusal so to do, the said watchmen, watchhouse keeper, serjeant of the watch, patrol, or person as aforesaid, or in case of his death the party in possession thereof, shall be subject and liable to a penalty not exceeding the sum of twenty pounds, to be recovered for the use of the said inspectors.

Penalty.

41. The watchmen, serjeants of the watch, patrols, and other persons to be appointed by virtue of this Act shall, during the time they shall be on duty, use their utmost endeavours to prevent any mischief by fire, and also to prevent all robberies, burglaries, and other felonies and misdemeanors, and other outrages, disorders, and breaches of the peace within the limits of the parish adopting the provisions of this Act; and to apprehend and secure all felons, rogues, vagabonds, and disorderly persons who shall disturb the public peace, or any person or persons wandering, secreting, or misbehaving himself, herself, or themselves, or whom they shall have reasonable cause to suspect of any evil designs, and to secure and keep in safe custody every such person, in order that he or she may be conveyed as soon as conveniently may be before one of His Majesty's justices of the peace, to be examined and dealt with according to law; and it shall and may be lawful to and for the said watchmen, serjeants of the watch, patrols, and other person or persons so appointed as aforesaid, to call and require any person or persons to aid and assist them in taking such felons, rogues, vagabonds, and all disorderly or suspected persons as aforesaid; and in case any person or persons shall assault or resist or shall promote or encourage the assaulting or resisting any of the watchmen, serjeants of the watch, patrols, or other person or persons so appointed as aforesaid, in the execution of their duty, every such person shall for every such offence forfeit and pay any sum not exceeding forty shillings; and in case any such offender shall not, on conviction, pay the said forfeiture, such justice is hereby required to commit him, her, or them to the House of Correction, there to be kept to hard labour, if the said justice shall so order, for any time not exceeding three calendar months, unless such forfeiture shall be sooner paid; or instead of committing the said offender as aforesaid, the said justice may, by warrant under his hand and seal, cause the said forfeiture, as well as the costs (if any) to be levied by distress and sale of the goods and chattels of the offender, returning the overplus (if any) of the money raised or recovered, after discharging the said forfeiture and the costs and expenses of recovering and levying the same, to the owner of the goods and chattels so seized and distrained.

Duty of
watchmen,
&c.

42. All watchmen, serjeants of the watch, and patrols shall be sworn in as constables before any justice of the peace, and act as such while in execution of the powers and authorities of this Act; and they are hereby invested with and shall have and enjoy the like powers and authorities, privileges and immunities, and shall be subject and liable to such and the like penalties and forfeitures, as any constable or constables is or are invested with, or shall or may have and enjoy, or is or are or shall be subject or liable to by law: Provided nevertheless, that no person by being sworn in and acting as or executing the office of a constable shall thereby gain a settlement in such parish.

Watchmen,
&c., to be
sworn in, and
to have the
power of
constables.

43. In all such cases in which any of the duties usually performed by constables shall have been executed by any of the officers appointed by the inspectors as hereinbefore enacted, all fees and allowances for the performance of such duties shall be paid over to the said inspectors, to be by them applied in aid of the rate levied under the provisions of this Act.

Certain fees
to be paid
over to in-
spectors.

44.* It shall be lawful for the said inspectors from time to time to provide and keep up fire-engines, with pipes and other utensils proper

Fire-engines
to be pro-
vided.

* This section is repealed as regards the metropolis by Metropolitan Fire Brigade Act, 1855 (28 and 29 Vict., c. 90), Section 35.

Sec. 44. for the same, for the use of the parish adopting the provisions of this Act, and to provide a proper place or places for the keeping of the same, and to place such engines under the care of some proper person or persons, and to make him or them such allowance for his or their trouble as may be thought reasonable, and the expenses attending the providing and keeping of such engines shall be paid out of the money authorised to be received by the inspectors under the provisions of this Act.

Lamp irons
to be put up.

45. It shall be lawful for the said inspectors, and they are hereby empowered, from time to time to cause such lamp irons or lamp posts or other posts to be put or fixed upon or against the walls or palisades of any houses, tenements, buildings, or inclosures (doing as little damage as may be practicable thereto), or to be put up and erected in such other manner, within all or any of the said roads, streets, and places within the limits of this Act, as they shall think proper; and also to cause such number of lamps,* of such sizes and sorts, to be provided and affixed and put upon such lamp irons and lamp posts, as they shall think necessary for lighting all or any of such roads, streets, and places, and cause the same to be lighted with gas, oil, or otherwise, for such number of hours in every twenty-four hours as they shall think necessary; and also to cause such a number of watch-houses or watchboxes to be provided, erected, or affixed as they shall think necessary for watching all or any of the streets, roads, and places within the limits of this Act.

Gas-pipes not
to be laid on
private
premises
without
consent.

46. Provided always . . . † that nothing herein contained shall extend or be construed to extend to authorise or empower the said inspectors, or any body or bodies politic or corporate, or person or persons contracting with the said inspectors for lighting with gas such roads, streets, and public places, to carry or lay any pipe or pipes, cocks or branches from any mains or pipes, against, into, or through any dwelling-house or dwelling-houses, manufactories, public or private buildings, or to continue the same, without the consent in writing of the owner or owners, occupier or occupiers for the time being of such dwelling-house or dwelling-houses, manufactories, public or private buildings respectively, nor to enable any body or bodies politic or corporate, or person or persons contracting with the said inspectors for lighting such streets and public places, to enter into or upon any private lands or grounds, without the consent in writing of the owner or owners, occupier or occupiers of such lands or grounds for that purpose first had and obtained.

Owners of
private
grounds may
alter position
of pipes.

47. Provided also . . . † that in case the soil, pitching, or pavement of any road or way, for the purpose of laying any gas main or gas-pipe along, under, or across the same, be broken up with the consent of the owner or owners of the soil for the time being, and after the same shall have been so laid and placed such owner or owners shall be desirous of having the same removed, it shall be lawful for such owner or owners at any time or times thereafter, if he, she, or they shall deem it necessary or expedient, at his, her, or their own costs and charges, to alter and vary the position of such pipe or pipes, main or mains, and to relay the same, so that no damage be done thereby to the said body or bodies politic or corporate or person or persons contracting with the said inspectors, and so that such body or bodies politic or corporate or person or persons contracting with

* As to fixing gas lamps against private tenements, compare *Meek v. Langdon* (37, 'Law Times' newspaper, 181).

† See note to Section 8.

the said inspectors as aforesaid be not thereby prevented from or obstructed in lighting any public or private lamp, unless such damage or obstruction be unavoidable. Sec. 47.

48. . . . * Whenever any gas shall be found to escape from any of the pipes which shall be laid down or set up by order of the said inspectors in pursuance of this Act, the body or bodies politic or corporate, or person or persons whosoever, making, furnishing, or supplying any gas used or burnt for lighting any highway, street, or place, or any houses, manufactory, building, or other premises within the limits of any parish adopting the provisions of this Act, shall at their own expense, immediately after receiving notice by parol or in writing from any person or persons whatsoever, to be given or left at their office or usual place of transacting their business, of any such escape of gas, cause the most speedy and effectual measures to be taken to stop or prevent such gas from escaping; and in case the said body or bodies politic or corporate, or person or persons as aforesaid, shall not, within twenty-four hours next after such notice by parol or in writing, being given of any such escape of gas, effectually stop and prevent the gas from escaping, and wholly and satisfactorily remove the cause of complaint, then and in every such case the said body or bodies politic or corporate, or person or persons as aforesaid, shall for every such offence forfeit and pay any sum not exceeding five pounds for each and every day, after the expiration of twenty-four hours from the time of giving any such notice, during which the gas shall be suffered to escape as aforesaid; which penalty shall from time to time be recoverable in a summary way, on the oath or affirmation of one or more credible witness or witnesses, before any two justices of the peace, and shall and may be recovered, with all reasonable charges, by distress and sale of the goods and chattels of any such body or bodies politic or corporate, or person or persons as aforesaid, by the warrant of any two justices of the peace as aforesaid, to be granted in like manner and subject to the like provisions as are herein directed touching other penalties to be recovered by virtue of this Act.

For stopping the escape of gas.
Penalty for neglect.

49. . . . * It shall be lawful for the body or bodies politic or corporate, or other person or persons whosoever, making, furnishing, or supplying any gas used or burnt for lighting any highway, street, or place, or any house, manufactory, building, or other premises within the limits of any parish adopting the provisions of this Act, to lay iron pipes, of such breadth, depth, and dimensions, and in such manner as they shall think expedient under the roads, streets, and other public places within the limits of this Act, for the purpose of carrying off the washings or other waste liquids which may arise in the prosecution of the works aforesaid, the said body or bodies politic or corporate, or other person or persons as aforesaid, doing as little damage as may be in laying the said pipes, and immediately repairing, at their own expense, all such damage; provided that no such washings or other waste liquids, or any other matter or thing made or arising in the manufacture of such gas, shall be conducted or conveyed into any river, brook, canal, or running stream; and that no such pipe shall be laid in any situation where the same can, shall, or may in any manner interfere with, prejudice, or affect any of the present or future public or private wells, sewers, or drains within the limits of the parish adopting the provisions of this Act, or without the consent of the said inspectors.

Power to convey away washings of gas-works.

* See note to Section 8.

Penalty for
conveying
washings
into any
river, &c.

50. . . * If any body or bodies politic or corporate, company or companies of proprietors, or any other person or persons whatsoever, making, furnishing, or supplying any gas used or burnt for lighting any highway, street, or place, or any house, manufactory, building, or other premises, within the limits of any parish adopting the provisions of this Act, shall at any time empty, drain, or convey, or cause or suffer to be emptied, drained, or conveyed, or to run or flow, any washings or other waste liquids, substances, or things whatsoever which shall arise or be made in the prosecution of the said gas-works, or in the manufacture or process of making or procuring such gas into any river, brook, or running stream, reservoir, canal, aqueduct, waterway, feeder, pond or springhead, or well, or into any drain, sewer, or ditch communicating with any of them, or do or cause to be done any annoyance, act, or thing to the water contained in any of them, whereby the water contained therein, or any part thereof, shall or may be spoiled, fouled, or corrupted, then and in every such case any such body or bodies politic or corporate, company or companies of proprietors, or other person or persons, so offending as aforesaid, shall forfeit and pay for every such offence the sum of two hundred pounds; and such penalty or forfeiture shall and may be sued for and recovered, together with full costs of suit, in any of His Majesty's courts of law, by regular or summary action of debt or on the case, or by bill, plaint, or information, wherein no essoign, protection, privilege, wager of law, nor more than one imparlance shall be allowed; and the whole of such penalty shall be paid to the person or persons who shall inform or sue for the same: Provided always, that no such penalty or forfeiture shall be recoverable unless the same be sued for within six calendar months from after the time when such annoyance, nuisance, injury, damage, act, or thing shall have ceased and determined: Provided also, that over and above and in addition to the said penalty of two hundred pounds, and whether such penalty shall or shall not have been sued for or recovered, in case any of the said washings or other waste liquid, or noisome or offensive liquid, substances, or things, shall be emptied, drained, conducted, or conveyed, or caused or suffered to run or flow, in manner aforesaid, into any river, brook, or running stream, or any reservoir, canal, aqueduct, waterway, feeder, pond or springhead, or well, or into any drain, sewer, or ditch communicating with any of them, or any such annoyance, nuisance, injury, damage, act, or thing shall be done or caused to be done as aforesaid, and notice thereof in writing shall have been given by any person or persons to whom the same shall belong, or by any other person or persons whomsoever, to the said body or bodies politic or corporate, company or companies of proprietors, or any of them, or other the person or persons making, furnishing, or supplying any gas used or burnt for lighting any highway, street, or place, or any house, manufactory, building, or other premises, within any parish or part of a parish adopting the provisions of this Act, so offending, or to his, her, or their clerk or clerks, or to any person in his or their service or employ, and such body or bodies politic or corporate, company or companies of proprietors, or other person or persons, shall not, within twenty-four hours after such notice shall have been given to them or him as aforesaid, stop and hinder or prevent all and every such washings, waste liquids, or noisome or offensive liquids, substances, or things, from being emptied, drained, conducted, or conveyed, or from running or flowing

* See note to Section 8.

in manner aforesaid, and every such other annoyance, nuisance, injury, damage, act, or thing from being done as aforesaid then and in every such case the said body or bodies politic or corporate, company or companies of proprietors, or other person or persons so offending, shall forfeit and pay the sum of twenty pounds for each and every day such washings, waste liquids, or noisome or offensive liquids, substances, or things shall be so emptied, drained, conducted, or conveyed, or caused or suffered to run or flow, in manner aforesaid, or such other annoyance, nuisance, injury or damage, act or thing shall be so done or caused to be done as aforesaid; and such last-mentioned penalty shall and may be recovered and levied in such and the like manner as any other penalty or forfeiture is in and by this Act directed to be recovered and levied, and shall be paid to the informer, or to the person or persons who, in the judgment of the justice before whom the conviction shall take place, shall have sustained any annoyance, injury, or damage by any such act so done or committed.

Sec. 50.

51. All and every the pipes or other conduits to be used or laid for the conveyance of gas in, under, through, along, across, or round any road, street, or other place within the limits of any parish adopting the provisions of this Act, shall be so laid at the greatest practical distance, and whenever the width of the carriageway in such street or place will allow thereof, at the distance of four feet at least from the nearest part of any water-pipe already laid down or hereafter to be laid down for the conveyance of water in, under, through, along, across, or round any of the said roads, streets, or other places within the limits of any parish adopting the provisions of this Act, excepting in cases where it shall be unavoidably necessary to lay the gas-pipes across any of the said water-pipes, in which case the said gas-pipes shall be laid over and above the said water-pipes at the greatest practical distance therefrom, and shall form therewith a right angle, and in such cases the said gas-pipes so crossing the said water-pipes shall be at least nine feet at length, so that no joint of any of the said gas-pipes shall be nearer to any part of the said water-pipes than four feet at least; and in laying down the said gas-pipes the said contractors or other persons supplying gas shall in no case join two or more gas-pipes together previous to their being laid in the trench, but shall lay each pipe as near as may be in its place in the trench, and shall in such trench properly form the jointing with the other pipes to be added thereto with proper and sufficient materials, and shall also make and keep all and every such pipes, and all pipes connected and communicating therewith, and all the screws, joints, inlets, apertures, or openings therein respectively, air-tight, and in all and every respect prevent the said gas from escaping therefrom, upon pain of forfeiting for every offence the sum of five pounds.

Gas-pipes to be laid four feet from water-pipes, and in a particular manner.

52. Whenever the water of any company of proprietors for supplying the inhabitants of any houses within the limits of any parish, part of a parish, or place adopting the provisions of this Act, with water, shall be contaminated by any of the gas used or burnt for lighting any highway, street, or place, or any house, manufactory, building, or other premises, within the limits of any parish, part of a parish, or place adopting the provisions of this Act, the body or bodies politic or corporate, or person or persons, making, furnishing, or supplying such gas shall forfeit and pay the sum of twenty pounds to be sued for and recovered, and shall be applied to and for the use and benefit of the said company supplying water as aforesaid; and

To prevent escape of gas and contamination of water.

Sec. 52. in case any such water shall be contaminated or affected by gas in any way whatsoever, then and in every such case the said company or other persons making, furnishing, or supplying such gas shall, within twenty-four hours next after the notice thereof in writing, signed by the treasurer or other officer of and for such water company as aforesaid, or by any person making use of such water, to be left at the usual place or office of transacting business of the said body or bodies politic or corporate, or other person or persons, cause the most proper and effectual measures to be taken to stop and prevent gas from escaping from their mains, works, or pipes, or contaminating or affecting the water of such company as aforesaid; and in case the said body or bodies politic or corporate, or other person or persons, making, furnishing, or supplying gas, shall not, within twenty-four hours next after such notice so left as aforesaid, effectually stop and prevent the gas from so escaping, and wholly and satisfactorily remove the cause of every such complaint, and prevent all and every such contamination whereof notice shall be given as aforesaid, that then the said body or bodies politic or corporate, or other person or persons as aforesaid, shall on each and every complaint forfeit and pay to the treasurer or other officer for the time being of such water company as aforesaid, for the use and benefit of the same company, over and above the before-mentioned penalty of twenty pounds, the sum of ten pounds for each and every day during which the water of the said last-mentioned company shall be and remain contaminated or affected by such gas; and in default of payment thereof as aforesaid, such penalty or penalties shall and may be recovered by information, to be exhibited on the oath of one credible witness, by and in the name of the treasurer or other officer for the time being of the said water company as aforesaid, or by and in the name of any one or more of the directors of the said company, at the option of the parties prosecuting such information against the said body or bodies politic or corporate, or other person or persons, making, furnishing, or supplying gas, before any two justices of the peace, with costs, to be assessed by such justices, and to be levied by distress and sale of the goods and chattels of the said body or bodies politic or corporate, or other person or persons, making, furnishing, or supplying such gas, together with the charges of such distress and sale, by warrant under the hand and seal of such justices, which warrant such justices are hereby empowered to grant, and such penalty or penalties, when so levied, shall be paid to the treasurer or other officer for the time being of such water company, for the use of such water company.

For ascertaining if the water be contaminated.

53. In any case in which it shall be or become a question upon such complaint as aforesaid, whether the said water be contaminated or affected by the gas of the said body or bodies politic or corporate, or other person or persons, making, furnishing, or supplying any gas used or burnt for lighting any highway, street, or place, or any house, manufactory, building, or other premises, within the limits of this Act, it shall be lawful for the company of proprietors or other the owners or proprietors of any waterworks, to dig to and about and search and examine the mains, pipes, conduits, and apparatus of the said body or bodies politic or corporate, or other person or persons as aforesaid, for the purpose of ascertaining whether such contamination proceed or be occasioned by the gas of the said body or bodies politic or corporate, or other person or persons as aforesaid; and if it shall appear that the said water has been contaminated by any

escape of gas as aforesaid, the costs and expenses of the said digging, search, and examination, and of the repair of the pavement of the roads, street or streets which shall be taken up or disturbed, shall be borne and paid by the said body or bodies politic or corporate, or person or persons as aforesaid; which costs and expenses of digging, search, and examination shall be ascertained and determined, if necessary, by such justices as aforesaid, and be recovered in like manner as any penalty may be recovered by virtue of this Act: Provided always, that if upon such examination it shall appear that such contamination has not arisen from any such escape of gas from any of the mains, pipes, or conduits of the said body or bodies politic or corporate, or other person or persons as aforesaid, then and in such case the said company of proprietors, or other the owners or proprietors of such waterworks, shall bear and pay all the costs and expenses of such search, examination, and repair as aforesaid, and shall also make good to the said body or bodies politic or corporate, or other person or persons as aforesaid, any loss, injury, or damage which may be occasioned to the said mains, pipes, conduits, or apparatus of the said body or bodies politic or corporate, or other person or persons as aforesaid, in and by such search and examination, the amount of such injury, loss, or damage to be ascertained and determined by such justices of the peace as aforesaid.

Sec. 53.

54. Provided always, that nothing in this Act contained shall extend or be construed to extend to prevent any person from proceeding by indictment or otherwise against any of the officers, servants, or workmen of the body or bodies politic or corporate, or other person or persons whomsoever, making, furnishing, or supplying any gas used or burnt for lighting any highway, street, or place, or any house, manufactory, building, or other premises, within the limits of any parish adopting the provisions of this Act, in respect of any works or other means which shall be employed by them or any of them in making the said gas, and using the same in furnishing with lights as aforesaid, as a public or private nuisance, or from bringing any action against the said body or bodies politic or corporate, company of proprietors, or person or persons as aforesaid, or any of their officers, servants, or workmen, for any injury sustained by reason of any such works, or the use of the said gas, or the method of lighting therewith, whether such injury shall proceed from the preparation or the use of the same gas, or method of lighting, or the carelessness or want of skill of any of the persons employed therein, or from any other cause whatsoever.

Persons supplying gas liable to be indicted for a nuisance.

55. If any person shall wilfully break, throw down, spoil, or damage any watchhouse, watchbox, or lamp, lamp iron, lamp post, pale, rail, chain, or other furniture thereof, or wilfully extinguish the light of any such lamp, it shall be lawful for any person or persons who shall see the offence committed to apprehend, and also for any other person or persons to assist in apprehending, the offender or offenders, and by the authority of this Act, and without any warrant, and to deliver him or them to any constable, who is to keep him, her, or them in safe custody, and with all reasonable dispatch to convey him, her, or them before any justice of the peace; and such justice shall examine upon oath any witness or witnesses who shall appear to be produced to give evidence touching such offence; and if the party accused shall be convicted of any such offence, either by his, her, or

Penalty for wilfully destroying or injuring lamps.

Sec. 55. their confession, or upon such evidence as aforesaid, he, she, or they shall forfeit any sum not exceeding forty shillings for every lamp, lamp iron, or lamp post so broken, thrown down, or damaged, and shall also make full satisfaction for the damage which shall have been done thereby, and not exceeding five pounds for any other such offence as aforesaid, and shall also make full satisfaction for the damage which shall have been done thereby; and one moiety of such forfeiture shall be paid to the person or persons apprehending such offender, and the other moiety shall be applied for the purposes of this Act, and shall be levied and recovered in the same manner as any forfeiture is by this Act hereinbefore directed to be levied and recovered in the case of any person assaulting any watchman or other person in the execution of his duty.

How persons
accidentally
breaking
lamps are to
be dealt with.

56. If any person shall carelessly or accidentally break any of the said lamps, lamp irons, or lamp posts, or do any other such damage or injury as hereinbefore is mentioned, and shall not, upon demand, make satisfaction to the said inspectors for the damage or injury so done, it shall and may be lawful for any justice of the peace, upon any complaint thereof made to him upon oath, to summon the party complained of, and upon hearing the parties upon both sides, or on the non-appearance of the party complained of, to examine the matter of complaint, and award such sum of money, by way of satisfaction to the said inspectors for such damage, as such justice shall think reasonable; and in case of neglect or refusal forthwith to pay such money, then the same and all expenses attending the recovery thereof may be levied and recovered as any forfeiture is by this Act hereinbefore directed to be levied and recovered in the case of any person assaulting any watchman or other person in the execution of his duty.

Power for
inspectors to
contract for
the works
directed to
be done by
this Act.

57. . . * It shall and may be lawful to and for the said inspectors from time to time to enter into any contract or contracts with any person, company or companies whatsoever, for lighting the same streets, roads, and other places, or any of them, or any part thereof, either with oil or with gas, or with any other material or in any other manner whatsoever, or for furnishing lamps, lamp irons, lamp posts, watchboxes, posts, chains, pales, rails, and other things necessary for the purposes aforesaid, or any materials for the same, which contract or contracts shall specify the several works to be done and the prices to be paid for the same, and the time or times when the works shall be completed, and the penalties to be suffered in cases of non-performance thereof, and shall be signed by two or more of the said inspectors, and also by the person or persons contracting to perform such works respectively, which contract or contracts, or a copy or copies thereof, shall be entered in a book to be kept for that purpose; but no contract above the value or sum of twenty pounds shall be entered into, unless previous to the making of any such contract fourteen days' notice shall be given in one or more of the public newspapers published in the county in which the said parish shall be situate, expressing the intention of entering into such contract, in order that any person or persons willing to undertake the same may make proposals for that purpose, to be offered and presented to the said inspectors at a certain time and place in such notice to be mentioned: Provided always, that if the said

* See notes to Sections 5, 8, and 17.

inspectors shall be of opinion that it will not be advantageous to contract with the person or persons offering the lowest price, it shall be lawful for the said inspectors to contract with such other person or persons as they shall think proper. Sec. 57.

58. . . * In case the same shall not be well and sufficiently performed, according to the terms, intent, and meaning of such contract or contracts, or shall not be finished or completed at or within the time or times specified in such contract or contracts, then the said inspectors may cause an action to be brought in any of His Majesty's Courts of Law at Westminster, against any such contractor, for any penalty contained in his contract; and on proof of his signing the said contract or contracts, or non-performance thereof at the time or times for that purpose to be therein mentioned, the said inspectors shall be entitled to and recover the full penalty contained in any such contract, which, when recovered, shall be applied for the purposes of this Act: Provided always, that it shall be lawful for the said inspectors (if they think fit) to compound and agree with any contractor for any penalty incurred by him for the breach or non-performance of any such contract, for such sum of money as the said inspectors shall think proper, not being less than the injury or damage sustained by the breach or non-performance of such contract, and all costs, charges, and expenses which shall be occasioned thereby; and it shall be lawful for the said inspectors to cancel or make void any contract with any person or persons whomsoever, by mutual consent, if they shall think proper.

Inspectors may sue for breach of contract;

or may compound with contractor.

59. . . * The said inspectors may and they are hereby authorised and empowered to treat with the owner or owners and occupier or occupiers of any houses, buildings, lands, and grounds, for the purposes of this Act, for such sum or sums of money, or yearly rent, or for such time as to them shall appear reasonable (which sum or sums of money and yearly rent shall be respectively paid out of the moneys to arise by virtue of this Act), in such place or places as they may think proper.

Inspectors may purchase or rent ground or buildings for the purposes of this Act.

60. . . * The property of and in all lamps, lamp irons, lamp posts, watchhouses, watchboxes, posts, chains, pales, and rails, in, about, or belonging to the said streets and places within any parish or part of a parish adopting the provisions of this Act, or any of them, and of and in all the iron, timber, stone, bricks, and other materials and furniture and things of, in, and belonging thereto (except when the same shall be otherwise regulated by contract with the said inspectors), shall be and the same are hereby vested in the said inspectors, and may be sold and disposed of from time to time as they shall think proper; and the money arising from such sale or sales shall be applied towards the purposes of this Act; and the said inspectors are hereby authorised and empowered to bring or cause to be brought any action or actions in such name or names and in manner as herein is provided, or to prefer or order and direct the preferring of any bill or bills of indictment against any person or persons who shall steal, take, or carry away (as the case may be) all or any part of such lamp irons, lamp posts, watchhouses, watchboxes, iron, timber, and stone, bricks, furniture, posts, chains, pales, rails, or other materials and things as aforesaid; and in all such

Property of lamps, &c., vested in the inspectors.

* See notes to Sections 5, 8, and 17.

Sec. 60. actions or bills of indictment it shall be and be deemed and taken to be sufficient to state generally that the article or articles, thing or things, for or on account of which such action or actions shall be brought, or such bill or bills of indictment preferred, is or are the property of the inspectors, without particularly stating or specifying the name or names of all or any of the said inspectors.

Inspectors
of adjoining
parishes
may unite.

61. . . * It shall be lawful for the inspectors appointed by any parish adopting the provisions of this Act to unite with the inspectors of any adjoining parish or parishes for the better carrying into effect the purposes of this Act.

62. (*Repealed by 47 and 48 Vict., c. 43.*)

Recovery and
application
of penalties.

63. All fines, penalties, and forfeitures inflicted or imposed by this Act, or by virtue of any rule or order made in pursuance hereof (the mode of recovery whereof is not herein otherwise provided for), may in case of non-payment thereof be recovered in a summary way, by order and adjudication of any two justices of the peace, on complaint to them for that purpose exhibited, and afterwards be levied, as well as the costs (if any) of such proceedings, on non-payment, by distress and sale of the goods and chattels of the offender or respective offenders, or person or persons liable to pay the same, by warrant under the hands and seals of such justices, . . . all which penalties, not herein directed to be otherwise applied, shall be paid to the said inspectors or their treasurer, to be applied for such purposes of this Act as the said inspectors shall order and direct, except in all such cases where the penalty or forfeiture shall be incurred by the said inspectors, and then the same shall be paid to the informer; and . . . if upon the return of such warrant or warrants it shall appear that no sufficient distress can be had whereupon to levy the said penalty or penalties and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of any such justices, upon the confession of the offender or offenders, or otherwise, that he, she, or they have or hath not sufficient goods and chattels whereupon such penalties, forfeitures, costs, and expenses can be levied if a warrant of distress were issued, such justices shall not be required to issue such warrant of distress, and thereupon it shall be lawful for such justices, and they are hereby required and empowered, by warrant or warrants under their hands and seals, to commit such offender or offenders to the common gaol or House of Correction in the said county or place in which the said parish shall be situate, there to be kept, with or without hard labour. . . .

Words
repealed by
47 & 48 Vict.,
c. 43.

Words
repealed by
47 & 48 Vict.,

Words
repealed by
47 & 48 Vict.,
c. 43.
Inspectors
exempted
from personal
liability.

64. Provided always, that nothing herein contained shall be deemed, construed, or taken to extend to render the said inspectors personally, or any of their goods and chattels (other than such as may be invested in them in pursuance of this Act), liable to the payment of any sum or sums of money as or by way of compensation or satisfaction in the cases in which such compensation or satisfaction is herein directed to be made by the said inspectors.

65. (*Repealed by 37 and 38 Vict., c. 35.*)

Appeal to
the quarter

66. . . * Provided also, that if any person or persons shall find himself, herself, or themselves aggrieved by any order, direction, or appoint-

* See notes to Sections 5, 8, and 17.

ment of the said inspectors, or any order or conviction of one or more sessions justice or justices of the peace, it shall be lawful for such person or persons to appeal to any general or quarterly sessions of the peace to be held in and for the county, city, riding, borough, town, shire, division, liberty, or place in which the parish shall be situate, within four calendar months next after the cause of complaint shall have arisen, or if such sessions shall be held before the expiration of one calendar month, then such appeal shall be made to the secondly succeeding sessions, either of which court of sessions is hereby empowered to hear and finally determine the matter of the said appeal, and to make such order therein as to them shall seem meet, which order shall be final and conclusive to and upon all parties: Provided that the person or persons so appealing shall give or cause to be given at least fourteen days' notice in writing of his, her, or their intention of appealing as aforesaid, and of the matter or cause thereof, to the said inspectors,* or other the respondent or respondents, that within five days after such notice shall enter into a recognisance before some justice of the peace, with sufficient securities, conditioned to try such appeal at the then next general sessions or quarter sessions of the peace which shall first happen, and to abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions or any adjournment thereof; and such justices, upon hearing and finally determining such matter of appeal, shall and may, according to their discretion, award such costs to the party appealing or appealed against as they shall think proper; and their determination in or concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever.

67. Provided also, and be it further enacted, that if any person or persons shall find himself, herself, or themselves aggrieved by any rate made by the overseers of the poor for the purposes of this Act, he, she, and they may appeal to any general or quarterly sessions of the peace to be held in and for the county, city, riding, borough, town, shire, division, liberty, or place in which the parish shall be situated; and all such appeals shall be subject to the same rules, regulations, provisions, and directions, and shall be prosecuted and proceeded with in the like manner, as appeals against rates made for the relief of the poor in such parish.

68. Provided also, that no plaintiff or plaintiffs shall recover in any action or actions for any irregularity, trespass, or other proceedings made or committed in execution of this Act if tender of sufficient amends shall be made by or on behalf of the party or parties who shall have committed any such irregularity, trespass, or wrongful proceedings before such action brought; and in case no tender shall have been made, it shall be lawful for the defendant or defendants in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of money as he or they shall think fit, whereupon such proceedings, order, and adjudication shall be made, had, and given in and by such court as in other actions where the defendant is allowed to pay money into court.

69. (*Repealed by 56 and 57 Vict., c. 61, s. 2.*)

† Notice of appeal should be served on justices as well as on inspectors; as to costs, *Reg. v. Wilkinson*, 2 Mood. and R. 431.

Proceedings not to be unlawful for want of form. 70. . . * No proceedings to be had and taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by certiorari or any other writ or process whatsoever into any of His Majesty's courts of record at Westminster or elsewhere.

Parishes may adopt only parts of Act. 71. . . * The provisions of this Act may be adopted in any parish, either as to lighting or as to watching, or as to lighting and watching as may be deemed expedient; and that the provisions of this Act may be adopted in any parish so far as the same relate to lighting, although such parish shall be watched under or by virtue of any Act of Parliament passed for that purpose, and may be adopted in any parish so far as the same relate to watching, although such parish shall be lighted under or by virtue of any Act of Parliament passed for that purpose.

Limiting the powers of the Act. 72. . . * Nothing in this Act contained shall be construed to extend to abridge, repeal, alter, amend, or interfere with the powers and provisions contained in an Act made and passed in the tenth year of the reign of His late Majesty King George the Fourth, intituled "An

10 G. 4, c. 44. Act for improving the police in and near the metropolis," or to extend to any parish or place already regulated by or under the provisions of any Act of Parliament for all the purposes hereinbefore provided for, or to interfere with the powers which any corporate body may have with respect to watching and lighting.

Parts of parishes may adopt the provisions of this Act, but not to interfere with any local rate. 73. . . * It shall and may be lawful to and for the inhabitants of part of any parish to hold a meeting of the inhabitants of such part, to be convened in manner herein directed, and to be composed of such inhabitants only, for the purpose of determining whether the provisions in this Act contained, or any of them, shall be adopted and carried into execution in such part of the said parish; and that all such meetings shall be subject and liable to all the clauses, regulations, and restrictions in this Act contained in respect of meetings to be convened for the purposes thereof; and that the churchwardens of the said parish shall act in the same manner for such part of the parish the inhabitants of which may be desirous of adopting the provisions of this Act, for carrying the provisions of the same into effect, as they could by virtue hereof act for the parish at large; and that the overseers of the poor of the said parish, or of any township or division of the said parish, shall be amenable to the provisions of this Act, so far as they may relate to the part of such parish situate within or partly within the division or district for which such overseers shall act for the purpose of levying, raising, and paying the rates within the part of such parish adopting the provisions of this Act, in the same manner as they would be if the whole parish, township, or place for which they act had adopted the provisions of this Act: Provided always, that no proceedings of the said inhabitants, nor any rate to be raised or levied in pursuance of such proceedings, shall extend to any part of the said parish which may already be regulated by or under the provisions of any Act for the purposes in this Act mentioned, nor interfere with the powers and provisions of such Act or the execution thereof in any respect whatsoever.

Surveyor of Commissioners of Sewers may enter into 74. And be it further enacted, that it shall be lawful for any surveyor or other person or persons acting by or under the authority of Commissioners of Sewers, at any time or times in the daytime, to enter into any manufactory, gasometer, receiver, or other building

* See note to Section 8.

belonging to any gas company or companies, or the said inspectors, in order to inspect and examine if there be any escape of gas, or any washings, or other waste liquids, substances, or other things whatsoever, which shall arise or be produced in the prosecution of the said gas-works, or in the manufacture or process of making or procuring such gas, into any public sewer or drain; and if such surveyor or other person or persons acting by or under the authority of Commissioners of Sewers shall at any such time or times be refused admittance or entrance into any such manufactory, gasometer, receiver, or other building, for the purpose of making such inspection and examination as aforesaid, or on being admitted shall be obstructed in or prevented from making such inspection and examination as aforesaid, the said gas company or companies, or the said inspectors, so offending shall forfeit and pay for every such offence the sum of twenty pounds.

gas-works to see if there be any escape of gas, &c.

75. Provided always, that nothing in this Act contained shall extend, or be deemed or construed to extend, to prejudice, diminish, alter, or take away any of the rights, powers, or authorities vested in Commissioners of Sewers, but all the rights, powers, and authorities vested in them shall be as good, valid, and effectual as if this Act had not been made.

Not to prejudice the rights of the Commissioners of Sewers,

76. Provided always, that nothing in this Act contained shall extend to alter or in any manner to affect any of the rights or privileges of the Universities of Oxford or Cambridge, or any of the powers vested by charter or otherwise in the chancellors, masters, and scholars, and their successors of the said universities.

nor to affect the universities.

77. The powers given to watch and light any parish shall be understood to be given to any wapentake, division, city, borough, liberty, township, market town, franchise, hamlet, tithing, precinct, and chapelry, or parts within the same; and that where the word "parish" is used, it shall be understood to extend to any parts within the same; and that the powers given to a churchwarden shall be understood to be given to any chapelwarden, overseer, or other person usually calling any meeting on parochial business; and that the words "justice of the peace" shall be understood to mean justices of the peace for the county, city, borough, town, division, riding, shire, liberty, or place in which the parish which may adopt the provisions of this Act shall be situate; and the word "ratepayer" to include all persons assessed to and paying rates for the relief of the poor.

Construction of Act.

78. (*Repealed by Statute Law Revision Act [No. 2], 1888.*)

PETROLEUM ACT, 1871.

34 & 35 VICT., C. 105.

A.D. 1871. An Act for the Safe Keeping of Petroleum and other Substances of a like Nature. [21st August, 1871.]

WHEREAS it is expedient to consolidate and amend the law relating to the safe keeping of petroleum and other substances of a like nature :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title of Act.

1. This Act may be cited as "The Petroleum Act, 1871."

Interpretation of certain terms in the Act :
"Borough."

2. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter assigned to them ; (that is to say,)

The term "borough" means—

In England any place for the time being subject to the provisions of the Act of the [session of the fifth and sixth years of the reign of King William the Fourth, Chapter seventy-six,*] "to provide for the regulation of municipal corporations in England and Wales," and the Acts amending the same ;

In Scotland any royal burgh and any burgh or town returning or contributing to return a member or members to serve in Parliament ;

In Ireland any place for the time being subject to the provisions of the Act of the session of the third and fourth years of the reign of Her present Majesty, Chapter one hundred and eight, "for the regulation of municipal corporations in Ireland, and the Acts amending the same ;"

"Person."
"Secretary of State."

The term "person" includes a body corporate ;

The term "Secretary of State" means one of Her Majesty's principal Secretaries of State ;

"Lord Lieutenant."

The term "Lord Lieutenant" means the Lord Lieutenant of Ireland or the lords justices or other chief governors or governor of Ireland for the time being ;

"Harbour."

The term "harbour" means any harbour properly so called, whether natural or artificial, and any port, haven, estuary, tidal river or other river, canal or inland navigation navigated by sea-going ships, and any dock, pier, jetty, or other works in or at which ships do or can ship or unship goods or passengers ;

"Harbour authority."

The term "harbour authority" includes any persons or person being or claiming to be proprietors or proprietor of or intrusted with the duty or invested with the power of improving, maintaining, or managing any harbour ;

* Now Municipal Corporations Act, 1882. See Section 242 (1) of that Act.

The term "ship" includes every description of vessel used in "Ship." navigation, whether propelled by oars or otherwise;

The term "Summary Jurisdiction Acts" means as follows:

As to England, the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, Chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," and any Acts amending the same;

As to Scotland, "The Summary Procedure Act, 1864;"

As to Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district; and elsewhere in Ireland, "The Petty Sessions (Ireland) Act, 1851," and any Act amending the same;

The term "Court of Summary Jurisdiction" means and includes any justice or justices of the peace, sheriff or sheriff substitute, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to, or to proceedings before whom the provisions of the Summary Jurisdiction Acts are or may be made applicable;

The term "county rate" means as regards Scotland the county general assessment leviable in pursuance of "The County General Assessment (Scotland) Act, 1868," and as regards Ireland the grand jury cess.

3. For the purposes of this Act the term "petroleum" includes any rock oil, Rangoon oil, Burmah oil, oil made from petroleum, coal, schist, shale, peat, or other bituminous substance, and any products of petroleum, or any of the above-mentioned oils.* . . .

4. Every harbour authority shall frame and submit for confirmation to the Board of Trade bye-laws for regulating the place or places at which ships carrying petroleum to which this Act applies are to be moored in the harbour over which such authority has jurisdiction, and are to land their cargo, and for regulating the time and mode of, and the precautions to be taken on, such landing. The harbour authority shall publish the bye-laws so framed with a notice of the intention of such authority to apply for the confirmation thereof. The Board of Trade may confirm such bye-laws with or without any omission, addition, or alteration, or may disallow the same.

Every such bye-law when confirmed shall be published by the harbour authority, and may be from time to time altered or repealed by a bye-law made in like manner. Bye-laws under this section shall be published in such manner as the Board of Trade may from time to time direct.

If at any time it appears to the Board of Trade that there is no bye-law for the time being in force under this section in any harbour the Board of Trade may, by notice, require the harbour authority of such harbour to frame and submit to them a bye-law for the purposes of this section, and if such harbour authority make default in framing a bye-law and obtaining the confirmation thereof within the time limited by such notice the Board of Trade may make a bye-law for the purposes of this section, and such bye-

Definition of "petroleum" and application of Act. Words repealed by Petroleum Act, 1879, Section 6. Bye-laws as to ship carrying petroleum.

* See Section 2 Petroleum Act, 1879 (p. 354).

Sec. 4. law shall have the same effect as if it had been framed by the harbour authority and confirmed by the Board of Trade.

Where any ship or cargo is moored, landed, or otherwise dealt with in contravention of any bye-law for the time being in force under this Act in any harbour, the owner and master of such ship, or the owner of such cargo, as the case may be, shall each incur a penalty not exceeding fifty pounds for each day during which such contravention continues, and it shall be lawful for the harbour-master or any other person acting under the orders of the harbour authority of such harbour to cause such ship or cargo to be removed, at the expense of the owner thereof, to such place as may be in conformity with the said bye-law, and all expenses incurred in such removal may be recovered in the same manner in which penalties are by this Act made recoverable.

Notice by owner or master of ship carrying petroleum.

5. The owner or master of every ship carrying a cargo any part of which consists of petroleum to which this Act applies, on entering any harbour within the United Kingdom, shall give notice of the nature of such cargo to the harbour authority having jurisdiction over such harbour.

If such notice is not given the owner and master of such ship shall each incur a penalty not exceeding the sum of five hundred pounds, unless it is shown to the satisfaction of the court before which the case is tried that neither the owner nor the master knew the nature of the goods to which the proceedings relate, nor could with reasonable diligence have obtained such knowledge.

Label on vessels containing petroleum.

6. Where any petroleum to which this Act applies—

- (a) Is kept at any place except during the seven days next after it has been imported; or
- (b) Is sent or conveyed by land or water between any two places in the United Kingdom; or
- (c) Is sold or exposed for sale;

the vessel containing such petroleum shall have attached thereto a label in conspicuous characters, stating the description of the petroleum, with the addition of the words "highly inflammable," and with the addition—

- (a) In the case of a vessel kept, of the name and address of the consignee or owner;
- (b) In the case of a vessel sent or conveyed, of the name and address of the sender;
- (c) In the case of a vessel sold or exposed for sale, of the name and address of the vendor.

All petroleum to which this Act applies which is kept, sent, conveyed, sold, or exposed for sale, in contravention of this section, shall, together with the vessel containing the same, be forfeited, and in addition thereto the person keeping, sending, selling, or exposing for sale the same shall for each offence be liable to a penalty not exceeding five pounds.

Regulations as to storage of petroleum.

7. Save as hereinafter mentioned, after the passing of this Act petroleum to which this Act applies shall not be kept, except in pursuance of a licence given by such local authority as is in this Act mentioned.*

* In *Jones v. Cook* (L. R. 6 Q. B. 505; 40 L. J. M. C. 179; 24 L. T. 806; 19 W. R. 771) the question of keeping petroleum arose under one of the repealed Acts.

All petroleum kept in contravention of this section shall, together with the vessel containing the same, be forfeited, and in addition thereto the occupier of the place in which such petroleum is so kept shall be liable to a penalty not exceeding twenty pounds a day for each day during which such petroleum is so kept.

This section shall not apply to any petroleum kept either for private use or for sale, provided the following conditions are complied with:

- (1) That it is kept in separate glass, earthenware, or metal vessels, each of which contains not more than a pint, and is securely stopped;
- (2) That the aggregate amount kept, supposing the whole contents of the vessels to be in bulk, does not exceed three gallons.

8. The following bodies shall respectively be the local authority to grant licences under this Act in the districts hereinafter mentioned (that is to say):

Definition
of local
authority.

- (1) In the city of London, except as hereafter in this section mentioned, the court of the Lord Mayor and aldermen of the said city:
- (2) In the metropolis (that is, in places for the time being within the jurisdiction of the Metropolitan Board of Works under the Metropolis Management Act, 1855), except the city of London, and except as hereafter in this section mentioned, the Metropolitan Board of Works:
- (3) In any borough in England or Ireland, except as hereafter in this section mentioned, the mayor, aldermen, and burgesses acting by the council:
- (4) In any place in England or Ireland, except as hereafter in this section mentioned, within the jurisdiction of any trustees or improvement commissioners appointed under the provisions of any local or general Act of Parliament, and not being a borough or comprising any part of a borough, the trustees or commissioners:
- (5) In any place in England (except as hereafter in this section mentioned) within the jurisdiction of a local board constituted under the Local Government Act, 1858,* and not being any of the districts before mentioned or comprising any part of any such district, the local board:
- (6)
- (7)
- (8) In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority before in this section mentioned, the harbour authority, to the exclusion of any other local authority:
- (9) In any place in which there is no local authority as before in this section defined, in England or Ireland, the justices in petty sessions assembled, and in Scotland any two or more justices of the peace for the county sitting as judges in the justice of peace court.†

* This is to be read as if Public Health Act, 1875, were here inserted; see Section 313 of that Act.

† By Local Government Act, 1894, Section 27, the powers, &c., of the justices in regard to the execution as the local authority of the Acts relating to petroleum is transferred to the district council of the district.

Mode of
granting
licences.

9. Licences in pursuance of this Act shall be valid if signed by two or more of the persons constituting the local authority, or executed in any other way in which other licences, if any, granted by such authority are executed. Licences may be granted for a limited time, and may be subject to renewal or not in such manner as the local authority think necessary.

There may be annexed to any such licence such conditions as to the mode of storage, the nature and situation of the premises in which, and the nature of the goods with which petroleum to which this Act applies is to be stored, the facilities for the testing of such petroleum from time to time, the mode of carrying such petroleum within the district of the licensing authority, and generally as to the safe keeping of such petroleum as may seem expedient to the local authority.

Any licensee violating any of the conditions of his licence shall be deemed to be an unlicensed person. There may be charged in respect of each licence granted in pursuance of this Act such sum, not exceeding five shillings, as the local authority may think fit to charge.

In case of
refusal of
licence the
applicant
may me-
morialise
Secretary of
State or
Lord Lieu-
tenant.

10. If on any application for a licence under this Act, the local authority refuse the licence, or grant the same only on conditions with which the applicant is dissatisfied, the local authority shall, if required by the applicant, deliver to him in writing under the hand or hands of one or more of the persons constituting the local authority, a certificate of the grounds on which they refused the licence or annexed conditions to the grant thereof.

The applicant within ten days from the time of the delivery of the certificate may transmit the same to a Secretary of State if the application is for a licence in England or Scotland, and to the Lord Lieutenant if the application is for a licence in Ireland, together with a memorial, praying that notwithstanding such refusal the licence may be granted, or that the conditions may not be imposed, or may be altered or modified in such manner and to such extent as may be set forth in such memorial.

It shall be lawful for the Secretary of State, or the Lord Lieutenant, if he think fit, on consideration of such memorial and certificate, and, if he think it necessary or desirable, after due inquiry and a report by such person as he may appoint for that purpose, to grant the licence paid for, either absolutely or with such conditions as he thinks fit, or to alter or modify the conditions imposed by the local authority; and the licence so granted, or altered and modified, as the case may be, when certified under the hand of a Secretary of State, or the Lord Lieutenant, shall be to all intents as valid as if granted by the local authority.

Testing of
petroleum
by officer
of local
authority.

11. Any officer authorised by the local authority may purchase any petroleum from any dealer in it, or may, on producing a copy of his appointment, purporting to be certified by the clerk or some member of the local authority, or producing some other sufficient authority, require the dealer to show him every or any place, and all or any of the vessels in which any petroleum in his possession is kept, and to give him samples of such petroleum on payment of the value of such samples.

When the officer has by either of the means aforesaid taken samples of petroleum, he may declare in writing to the dealer that he is about to test the same, or cause the same to be tested, in manner

set forth in Schedule one to this Act,* and it shall be lawful for him to test the same or cause the same to be tested, at any convenient place at such reasonable time as he may appoint, and the dealer or any person appointed by him may be present at the testing, and if it appear to the officer or other person so testing that the petroleum from which such samples have been taken is petroleum to which this Act applies, such officer or other person may certify such fact, and the certificate so given shall be receivable as evidence in any proceedings that may be taken against a dealer in petroleum in pursuance of this Act; but it shall be lawful for a dealer proceeded against to give evidence in proof that such certificate is incorrect, and thereupon the court before which any such proceedings may be taken may, if such court think fit, appoint some person skilled in testing petroleum to examine the samples to which such certificate relates, and to declare whether such certificate is correct or incorrect.

Sec. 11.

Any expenses incurred in testing any petroleum of such dealer in pursuance of this section shall, if such dealer be convicted of keeping, sending, conveying, selling, or exposing for sale, petroleum in contravention of this Act, be deemed to be a portion of the costs of the proceedings against him, and shall be paid by him accordingly. In any other event such expenses shall be paid by the local authority out of any funds for the time being in their hands, and in case the local authority are the justices,† out of the county rate.

12. Any dealer who refuses to show to any officer authorised by the local authority every or any place or all or any of the vessels in which petroleum in his possession is kept, or to give him such assistance as he may require for examining the same, or to give to such officer samples of such petroleum on payment of the value of such samples, or who wilfully obstructs the local authority, or any officer of the local authority, in the execution of this Act, shall incur a penalty not exceeding twenty pounds.

Penalty for refusing information and obstructing officer.

13. Where any court of summary jurisdiction is satisfied by information on oath that there is reasonable ground to believe that any petroleum to which this Act applies is being kept, sent, conveyed, or exposed for sale within the jurisdiction of such court in contravention of this Act, at any place, whether a building or not, or in any ship or vehicle, such court shall grant a warrant by virtue whereof it shall be lawful for any person named in such warrant to enter the place, ship, or vehicle named in such warrant, and every part thereof, and examine the same and search for petroleum therein, and take samples of any petroleum found therein, and if any petroleum to which this Act applies be found therein, which is kept, sent, conveyed, or exposed for sale, in contravention of this Act, to seize and remove such petroleum, and the vessel containing the same, and to detain such petroleum and vessel until some court of summary jurisdiction has determined whether the same are or not forfeited, the proceedings for which forfeiture shall be commenced forthwith after the seizure.

Search for petroleum. See 23 & 24 Vict., c. 139, c. 25.

Any person seizing any petroleum to which this Act applies in pursuance of this section shall not be liable to any suit for detaining the same, or for any loss or damage incurred in respect of such petroleum, otherwise than by any wilful act or neglect while the same is so detained.

* See Section 6 Petroleum Act, 1879 (p. 355).

† See Section 27 Local Government Act, 1894.

Sec. 13. If any petroleum to which this Act applies is seized in pursuance of this section in any ship or vehicle, the person seizing the same may use for the purposes of the removal thereof, during twenty-four hours after the seizure, the said ship or vehicle, with the tackle, beasts, and accoutrements belonging thereto, and if he do so shall pay to the owner thereof a reasonable recompense for the use thereof, and the amount of such recompense shall, in case of dispute, be settled by the court of summary jurisdiction before whom proceedings for the forfeiture are taken, and may be recovered in like manner as penalties under this Act may be recovered.

Any person who, by himself or by any one in his employ or acting by his direction or with his consent, refuses or fails to admit into any place occupied by or under the control of such person, any person demanding to enter in pursuance of this section, or in any way obstructs or prevents any person in or from making any such search, examination, or seizure, or taking any such samples as authorised by this section, shall be liable to pay a penalty not exceeding twenty pounds, and to forfeit all petroleum to which this Act applies which is found in his possession or under his control.

Application
of Act to
other sub-
stances.

14. Her Majesty may from time to time make, revoke, and vary orders in Council directing this Act or any part thereof to apply to any substance, and this Act, or the part thereof specified in the order shall, during the continuance of the order, apply to such substance, and shall be construed and have effect as if throughout it such substance had been included in the definition of petroleum to which this Act applies, subject to the following qualifications:

- (1) The quantity of any substance to which this Act is directed by order in Council to apply, which may be kept without a licence, shall be such quantity only as is specified in that behalf in such order, or if no such quantity is specified no quantity may be kept without a licence:
- (2) The label on the vessel containing such substance shall be such as may be specified in that behalf in the order.

Summary
proceedings
for offences,
penalties,
&c.

15. In England and Ireland all offences and penalties under this Act, and all money and costs directed by this Act to be recovered as penalties, may be prosecuted and recovered in manner provided by the Summary Jurisdiction Acts.

Provided as follows:

1. A court of summary jurisdiction shall not impose a penalty exceeding fifty pounds, but any such court may impose that or any less penalty for any one offence, notwithstanding the offence involves a penalty of higher amount.

2.

3. The "Court of Summary Jurisdiction," when hearing and determining an information or complaint, shall be constituted in some one of the following manners (that is to say):

- (a) In England, either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of one of the magistrates hereinafter mentioned, sitting alone or with others at some court or other place appointed for the administration of justice; that is to say, the Lord Mayor, or any alderman of the City of London, a metropolitan police magistrate, a stipendiary magistrate, or

some other officer or officers for the time being empowered by law to do alone or with others any act authorised to be done by more than one justice of the peace. Sec. 15.

(b) : : : : :
(c) : : : : :

4. The description of any offence under this Act in the words of such Act shall be sufficient in law.

5. Any exception, exemption, proviso, excuse, or qualification, whether it does or not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived no proof in relation to the matters so specified or negatived shall be required on the part of the informant or prosecutor.

6. No conviction or order made in pursuance of this Act shall be quashed for want of form or be removed by certiorari or otherwise, either at the instance of the Crown or of any private party, into any superior court. Moreover, no warrant of commitment shall be held void by reason of any defect therein, provided that there is a valid conviction to maintain such warrant, and it is alleged in the warrant that the party has been convicted.

7. All forfeitures may be sold or otherwise disposed of in such manner as the court may direct.

8. : : : : :
9. : : : : :

16. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any local or harbour authority by Act of Parliament, law, or custom, and every local authority and harbour authority may exercise such other powers in the same manner as if this Act had not passed; and nothing in this Act contained shall be deemed to exempt any person from any penalty to which he would otherwise be subject in respect of a nuisance. Reservation of previous powers with respect to inflammable substances.

17. The Acts mentioned in Schedule Two to this Act are hereby repealed to the extent in that Schedule mentioned. Repeal of Acts.

Provided that such repeal shall not affect any order in Council made or any licence granted, under any Act hereby repealed or any liability or penalty incurred in respect of any offence committed before the passing of this Act, or any remedy or proceeding for enforcing such liability or penalty, and every such order, so far as relates to the matters provided for by this Act, and every such licence, shall have effect as if it had been made or granted under this Act.

18. [Repealed by Petroleum Act, 1879, Section 6.]

SCHEDULES.

SCHEDULE ONE.

(See Section 2 of the Petroleum Act, 1879. Schedule 1 of that Act is substituted for this Schedule.)

SCHEDULE TWO.

Year and Chapter.	Title.	Extent of Repeal.
25 & 26 Vict., c. 66	An Act for the Safe Keeping of Petroleum	The whole Act.
29 & 30 Vict., c. 69	The Carriage and Deposit of Dangerous Goods Act, 1866	Sections eight and nine.
31 & 32 Vict., c. 56	The Petroleum Act, 1868	The whole Act.

PETROLEUM ACT, 1879.

42 & 43 VICT., C. 47.

A.D. 1879. An Act to continue and amend the Petroleum Act of 1871.

[11th August, 1879.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title
and con-
struction of
Act.
34 & 35 Vict.,
c. 105.
Alteration
of test.
34 & 35 Vict.,
c. 105.

1. This Act may be cited as the Petroleum Act, 1879.

This Act shall be construed as one with the Petroleum Act, 1871, and together with that Act may be cited as the Petroleum Acts, 1871 and 1879.

2. Whereas by the Petroleum Act, 1871, it is enacted that the term "petroleum to which this Act applies" means such of the petroleum defined by that Act as, when tested in manner set forth in Schedule One to that Act, gives off an inflammable vapour at a temperature of less than one hundred degrees of Fahrenheit's thermometer, and it is expedient to alter the said test: Be it therefore enacted that—

34 & 35 Vict.,
c. 105.

In the Petroleum Act, 1871, the term "petroleum to which this Act applies" shall mean such of the petroleum defined by Section three of that Act as, when tested in manner set forth in Schedule One to this Act, gives off an inflammable vapour at a temperature of less than seventy-three degrees of Fahrenheit's thermometer.

34 & 35 Vict.,
c. 105.

Every reference in the Petroleum Act, 1871, to Schedule One to that Act shall be construed to refer to Schedule One to this Act.

Verification
of test
apparatus.

3. A model of the apparatus for testing petroleum, as described in Schedule One to this Act, shall be deposited with the Board of Trade, and the Board of Trade shall, on payment of such fee, not exceeding five shillings, as they from time to time prescribe, cause to be compared with such model and verified every apparatus constructed in accordance with Schedule One to this Act, which is submitted to them for the purpose, and if the same is found

correct shall stamp the same with a mark approved of by the Board and notified in the 'London Gazette.' **Sec. 3.**

An apparatus for testing petroleum purporting to be stamped with the said mark shall, until the contrary is proved, be deemed to have been verified by the Board of Trade.

All fees under this section shall be paid into the Exchequer.

4. The Petroleum Act, 1871, shall continue in force until otherwise directed by Parliament. Continuance of 34 & 35 Vict., c. 105.

5. This Act shall come into operation on the thirty-first day of December One thousand eight hundred and seventy-nine, which day is in this Act referred to as the commencement of this Act. Commencement of Act.

6. The Petroleum Act, 1871, shall be repealed after the commencement of this Act to the extent in the third column of the Second Schedule to this Act mentioned. Repeal of part of 34 & 35 Vict., c. 105.

Provided that any sample of petroleum taken before the commencement of this Act shall be tested * in manner set forth in Schedule One to the Petroleum Act, 1871, and any offence committed before the commencement of this Act shall be prosecuted, and any investigation, legal proceeding, or remedy in relation to such offence, or to any act done before the commencement of this Act, shall be instituted, carried on, and have effect as if the provisions of this Act, other than those continuing the Petroleum Act, 1871, had not been passed. 34 & 35 Vict., c. 105.

FIRST SCHEDULE.

MODE OF TESTING PETROLEUM SO AS TO ASCERTAIN THE TEMPERATURE AT WHICH IT WILL GIVE OFF INFLAMMABLE VAPOUR.

SPECIFICATION OF THE TEST APPARATUS.

The following is a description of the details of the apparatus:—

The oil cup consists of a cylindrical vessel 2" diameter, $2\frac{2}{10}$ " height (internal), with outward projecting rim $\frac{5}{10}$ " wide, $\frac{3}{8}$ " from the top, and $1\frac{1}{8}$ " from the bottom of the cup. It is made of gun-metal or brass (17 B.W.G.) tinned inside. A bracket, consisting of a short stout piece of wire bent upwards and terminating in a point, is fixed to the inside of the cup to serve as a gauge. The distance of the point from the bottom of the cup is $1\frac{1}{2}$ ". The cup is provided with a close-fitting overlapping cover made of brass (22 B.W.G.) which carries the thermometer and test lamp. The latter is suspended from two supports from the side by means of trunnions upon which it may be made to oscillate; it is provided with a spout, the mouth of which is one sixteenth of an inch in diameter. The socket which is to hold the thermometer is fixed at such an angle and its length is so adjusted that the bulb of the thermometer when inserted to its full depth shall be $1\frac{1}{2}$ " below the centre of the lid.

The cover is provided with three square holes, one in the centre, $\frac{5}{10}$ " by $\frac{4}{10}$ ", and two smaller ones $\frac{3}{10}$ " by $\frac{2}{10}$ ", close to the sides and opposite each other. These three holes may be closed and

* In *Beck v. Stringer*, L. R. 6 Q. B. 497; 40 L. J. M. C. 174; 25 L. T. 122, 19 W. R. 1140; the question of testing arose under the Acts repealed by the Petroleum Act of 1871.

uncovered by means of a slide moving in grooves, and having perforations corresponding to those on the lid.

In moving the slide so as to uncover the holes, the oscillating lamp is caught by a pin fixed in the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. Upon the slide being pushed back so as to cover the holes, the lamp returns to its original position.

Upon the cover, in front of and in line with the mouth of the lamp, is fixed a white bead, the dimensions of which represent the size of the test flame to be used.

The bath or heated vessel consists of two flat-bottomed copper cylinders (24 B.W.G.), an inner one of 3" diameter and $2\frac{1}{2}$ " height, and an outer one of $5\frac{1}{2}$ " diameter and $5\frac{3}{4}$ " height; they are soldered to a circular copper plate (20 B.W.G.) perforated in the centre, which forms the top of the bath, in such a manner as to enclose the space between the two cylinders, but leaving access to the inner cylinder. The top of the bath projects both outwards and inwards about $\frac{3}{8}$ "; that is, its diameter is about $\frac{9}{8}$ " greater than that of the body of the bath, while the diameter of the circular opening in the centre is about the same amount less than that of the inner copper cylinder. To the inner projection of the top is fastened, by six small screws, a flat ring of ebonite, the screws being sunk below the surface of the ebonite, to avoid metallic contact between the bath and the oil cup. The exact distance between the sides and bottom of the bath and of the oil lamp is one half of an inch. A split socket similar to that on the cover of the oil cup, but set at a right angle, allows a thermometer to be inserted into the space between the two cylinders. The bath is further provided with a funnel, an overflow pipe, and two loop handles.

The bath rests upon a cast-iron tripod stand, to the ring of which is attached a copper cylinder or jacket (24 B.W.G.) flanged at the top, and of such dimensions that the bath, while firmly resting on the iron ring, just touches with its projecting top the inward-turned flange. The diameter of this outer jacket is $6\frac{1}{2}$ ". One of the three legs of the stand serves as support for the spirit lamp attached to it by means of a small swing bracket. The distance of the wick holder from the bottom of the bath is 1".

Two thermometers are provided with the apparatus, the one for ascertaining the temperature of the bath, the other for determining the flashing point. The thermometer for ascertaining the temperature of the water has a long bulb and a space at the top. Its range is from about 90° to 190° Fahrenheit. The scale (in degrees of Fahrenheit) is marked on an ivory back fastened to the tube in the usual way. It is fitted with a metal collar, fitting the socket, and the part of the tube below the scale should have a length of about $3\frac{1}{2}$ " measured from the lower end of the scale to the end of the bulb. The thermometer for ascertaining the temperature of the oil is fitted with collar and ivory scale in a similar manner to the one described. It has a round bulb, a space at the top, and ranges from about 55° F. to 150° F.; it measures from end of ivory back to bulb $2\frac{1}{4}$ ".

NOTE.—A model apparatus is deposited at the Weights and Measures Department of the Board of Trade.

DIRECTIONS FOR APPLYING THE FLASHING TEST.

1. The test apparatus is to be placed for use in a position where it is not exposed to currents of air or draughts.

2. The heating vessel or water-bath is filled by pouring water into the funnel until it begins to flow out at the spout of the vessel. The temperature of the water at the commencement of the test is to be 130° Fahrenheit, and this is attained in the first instance either by mixing hot and cold water in the bath, or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or by heating the water with the spirit lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

If the water has been heated too highly, it is easily reduced to 130° by pouring in cold water little by little (to replace a portion of the warm water) until the thermometer gives the proper reading.

When a test has been completed, this water-bath is again raised to 130° by placing the lamp underneath, and the result is readily obtained while the petroleum cup is being emptied, cooled, and refilled with a fresh sample to be tested. The lamp is then turned on its swivel from under the apparatus, and the next test is proceeded with.

3. The test lamp is prepared for use by fitting it with a piece of flat-plaited candle wick, and filling it with colza or rape oil up to the lower edge of the opening of the spout or wick tube. The lamp is trimmed so that when lighted it gives a flame of about 0.15 of an inch diameter, and this size of flame which is represented by the projecting white bead on the cover of the oil cup is readily maintained by simple manipulation from time to time with a small wire trimmer.

When gas is available it may be conveniently used in place of the little oil lamp, and for this purpose a test-flame arrangement for use with gas may be substituted for the lamp.

4. The bath having been raised to the proper temperature, the oil to be tested is introduced into the petroleum cup, being poured in slowly until the level of the liquid just reaches the point of the gauge which is fixed in the cup. In warm weather the temperature of the room in which the samples to be tested have been kept should be observed in the first instance, and if it exceeds 65° the samples to be tested should be cooled down (to about 60°) by immersing the bottles containing them in cold water, or by any other convenient method. The lid of the cup, with the slide closed, is then put on, and the cup is placed into the bath or heating vessel. The thermometer in the lid of the cup has been adjusted so as to have its bulb just immersed in the liquid, and its position is not under any circumstances to be altered. When the cup has been placed in the proper position, the scale of the thermometer faces the operator.

5. The test lamp is then placed in position upon the lid of the cup, the lead line or pendulum, which has been fixed in a convenient position in front of the operator, is set in motion, and the rise of the thermometer in the petroleum cup is watched. When the temperature has reached about 66° the operation of testing is to be commenced, the test-flame being applied once for every rise of one degree, in the following manner:

The slide is slowly drawn open while the pendulum performs three oscillations, and is closed during the fourth oscillation.

NOTE.—If it is desired to employ the test apparatus to determine

the flashing points of oil of very low volatility, the mode of proceeding is to be modified as follows :

The air-chamber which surrounds the cup is filled with cold water to a depth of $1\frac{1}{2}$ inches, and the heating vessel or water-bath is filled as usual, but also with cold water. The lamp is then placed under the apparatus and kept there during the entire operation. If a very heavy oil is being dealt with, the operation may be commenced with water previously heated to 120° , instead of with cold water.

SECOND SCHEDULE.

ACT REPEALED.

Year and chapter.	Title.	Extent of Repeal.
34 & 35 Vict., c. 105	The Petroleum Act, 1871	Section three, from "and the term petroleum to which this Act applies" inclusive to the end of the section. Section eighteen.

PETROLEUM (HAWKERS) ACT, 1881.

44 & 45 VICT., C. 67.

A.D. 1881. An Act to regulate the hawking of Petroleum and other Substances of a like Nature. [27th August, 1881.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Power to hawk petroleum, 34 & 35 Vict., c. 105.

1. Any person who is licensed in pursuance of the Petroleum Act, 1871, to keep petroleum to which that Act applies may, subject to the enactments for the time being in force with respect to hawkers and pedlars, hawk such petroleum by himself or his servants.

Regulations for hawking petroleum.

2. With respect to the hawking of petroleum to which the Petroleum Act, 1871, applies, the following regulations shall be observed :

- (1) The amount of petroleum conveyed at one time in any one carriage shall not exceed twenty gallons :
- (2) The petroleum shall be conveyed in a closed vessel so constructed as to be free from leakage :
- (3) The carriage in which the vessels containing the petroleum are conveyed shall be so ventilated as to prevent any evaporation from the petroleum mixing with the air in or about the carriage in such proportion as to produce or be liable to produce an explosive mixture :

Sec. 2.

- (4) Any fire or light or any article of an explosive or highly inflammable nature shall not be brought into or dangerously near to the carriage in which the vessels containing the petroleum are conveyed:
- (5) The carriage in which the vessels containing the petroleum are conveyed shall be so constructed or fitted that the petroleum cannot escape therefrom in the form of liquid, whether ignited or otherwise:
- (6) Proper care shall be taken to prevent any petroleum escaping into any part of a house or building, or of the curtilage thereof, or into a drain or sewer:
- (7) The petroleum shall be stored in some premises licensed for keeping of petroleum and in accordance with the licence for such premises both every night and also when the petroleum is not in the course of being hawked:
- (8) All due precautions shall be taken for the prevention of accidents by fire or explosion, and for preventing unauthorised persons having access to the vessels containing the petroleum, and every person concerned in hawking the petroleum shall abstain from any act whatever which tends to cause fire or explosion, and is not reasonably necessary for the purpose of such hawking:
- (9) No article or substance of an explosive or inflammable character other than petroleum, nor any article liable to cause or communicate fire or explosion, shall be in the carriage while such carriage is being used for the purpose of hawking petroleum.

In the event of any contravention of this section with reference to any petroleum, the petroleum, together with the vessels containing and the carriage conveying the same, shall be liable to be forfeited, and in addition thereto the licensee by whom or by whose servants the petroleum was being hawked shall be liable on summary conviction to a penalty not exceeding twenty pounds.

Provided that—

- (1) Where some servant of the licensee or other person has in fact committed the offence, such servant or other person shall be liable to the same penalty as if he were the licensee:
- (2) Where the licensee is charged with a contravention of this section, he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if the licensee proves to the satisfaction of the court that he had used due diligence to enforce the execution of this section, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the licensee shall be exempt from any penalty.

Any petroleum other than that to which the Petroleum Act, 1871, applies while in any carriage used for the hawking of petroleum to which the Petroleum Act, 1871, applies, shall for the purposes of this section be deemed to be petroleum to which the Petroleum Act, 1871, applies.

3. Any conditions annexed to a licence granted in pursuance of the Petroleum Act, 1871, either before or after the passing of this Act, shall, so far as they are inconsistent with this Act, be void, Modification
of conditions
of licence
under

Sec. 3. but save as aforesaid nothing in this Act shall affect the application
 34 & 35 Vict., to a licensee of the provisions of the Petroleum Act, 1871, or of any
 c. 105. licence granted thereunder.

Power of constable as to prevention of offences. 4. Where a constable or any officer authorised by the local authority has reasonable cause to believe that a contravention of this Act is being committed in relation to any petroleum, he may seize and detain such petroleum and the vessels and carriage containing the same, until some court of summary jurisdiction has determined whether there was or not a contravention of this Act, and Section thirteen of the Petroleum Act, 1871, shall apply to such constable and officer as if he were the person named in the warrant mentioned in that section, and as if the seizure were a seizure in pursuance of that section.

Saving of rights of municipal boroughs. 5. Nothing in this Act contained shall extend to authorise the hawking of petroleum within the limits of any municipal borough in which, by any lawful authority, such hawking shall have been or may hereafter be forbidden.

Definitions. 6. For the purposes of this Act—
 The expression "carriage" includes any carriage, waggon, cart, truck, vehicle, or other means of conveyance by land, in whatever manner the same may be drawn or propelled; and
 A person shall be deemed for the purposes of this Act to hawk petroleum if by himself or his servants he goes about carrying petroleum to sell, whether going from town to town or to other men's houses, or selling it in the streets of the place of his residence or otherwise, and whether with or without any horse or other beast bearing or drawing burden.

Short title and construction of Act. 7. This Act may be cited as the Petroleum (Hawkers) Act, 1881.
 This Act shall be construed as one with the Petroleum Acts, 1871 and 1879, and together with those Acts may be cited as the Petroleum Acts, 1871 to 1881.
 34 & 35 Vict.,
 c. 105.
 42 & 43 Vict.,
 c. 47.

PUBLIC HEALTH ACT, 1875.

38 & 39 VICT., C. 55.

A.D. 1875. [The following sections are printed here for convenience of reference. They are the sections mentioned in various parts of the Local Government Act, 1894, and in the other Acts set out in the Appendix.]

Description of urban districts and urban authorities. 6. Urban districts shall consist of the places in that behalf mentioned in the first column of the table in this section contained, and urban authorities shall be the several bodies of persons specified in the second column of the said table in relation to the said places respectively.

Urban District.	Urban Authority.	Sec. 6.
Borough constituted such either before or after the passing of this Act.	The mayor, aldermen, and burgesses acting by the council.	
Improvement Act district constituted such before the passing of this Act, and having no part of its area situated within a borough or Local Government district.	The improvement commissioners.	
Local Government district constituted such either before or after the passing of this Act, having no part of its area situated within a borough, and not coincident in area with a borough or Improvement Act district.	The local board.	

Provided that—

- (1) Any borough, the whole of which is included in and forms part of a Local Government district or Improvement Act district, and any Improvement Act district which is included in and forms part of a Local Government district, and any Local Government district which is included in and forms part of an Improvement Act district, shall for the purposes of this Act be deemed to be absorbed in the larger district in which it is included, or of which it forms part; and the improvement commissioners or local board, as the case may be, of such larger district shall be the urban authority therein; and
- (2) Where an Improvement Act district is coincident in area with a Local Government district, the improvement commissioners, and not a local board, shall be the urban authority therein; and
- (3) Where any part of an Improvement Act district is situated within a borough or Local Government district, or where any part of a Local Government district is situated within a borough, the remaining part of such Improvement Act district or of such Local Government district so partly situated within a borough shall for the purposes of this Act continue subject to the like jurisdiction as it would have been subject to if this Act had not been passed, unless and until the Local Government Board by provisional order otherwise directs.

For the purposes of this Act, the boroughs of Oxford, Cambridge, Blandford, Calne, Wenlock, Folkestone, and Newport, Isle of Wight, shall not be deemed to be boroughs, and the borough of Cambridge shall be deemed to be an Improvement Act district, and the borough of Oxford to be included in the Local Government district of Oxford. So much of the borough of Folkestone as is not included within the Local Government district of Sandgate shall be an urban district, and shall be under the jurisdiction, for the purposes of this Act, of the authority for executing "The Folkestone Improvement Act, 1855."

9. The area of any union which is not coincident in area with an urban district, nor wholly included in an urban district (in this section called a rural union), with the exception of those portions (if any) of the area which are included in any urban district, shall be a rural Description of rural districts and rural authorities.

Sec. 9. district, and the guardians of the union shall form the rural authority of such district: [Provided that—*

- (1) An ex-officio guardian resident in any parish or part of a parish belonging to such union, which parish or part of a parish forms or is situated in an urban district, shall not act or vote in any case in which guardians of such union act or vote as members of the rural authority, unless he is the owner or occupier of property situated in the rural district of a value sufficient to qualify him as an elective guardian for the union:
- (2) An elective guardian of any parish belonging to such union, and forming or being wholly included within an urban district, shall not act or vote in any case in which guardians of such union act or vote as members of the rural authority:
- (3) Where part of a parish belonging to a rural union forms or is situated in an urban district, the Local Government Board may by order divide such parish into separate wards, and determine the number of guardians to be elected by such wards respectively, in such manner as to provide for the due representation of the part of the parish situated within the rural district; but until such order has been made the guardian or guardians of such parish may act and vote as members of the rural authority in the same manner as if no part of such parish formed part of or was situated in an urban district.]

Where the number of elective guardians who are not by this section disqualified from acting and voting as members of the rural authority is less than five, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number [from owners or occupiers of property situated in the rural district of a value sufficient to qualify them as elective guardians for the union], and the persons so nominated shall be entitled to act and vote as members of the rural authority, but not further or otherwise.

[Subject to the provisions of this Act, all statutes, orders, and legal provisions applicable to any board of guardians shall apply to them in their capacity of rural authority under this Act for purposes of this Act; and it is hereby declared that the rural authority are the same body as the guardians of the union or parish for or within which such authority act.]*

Powers and
duties of
urban autho-
rities.

10. In addition to the powers, rights, duties, capacities, liabilities, and obligations exercisable by or attaching to an urban authority under this Act, every urban authority shall within their district (to the exclusion of any other authority which may have previously exercised or been subject to the same) have, exercise, and be subject to all the powers, rights, duties, capacities, liabilities, and obligations within such district exercisable or attaching by and to the local authority under the Artisans and Labourers Dwellings Act, or any Acts amending the same.

Words
repealed by
the Factory
Act, 1878.

Where the Baths and Washhouses Acts and the Labouring Classes Lodging-houses Acts, or any of them, are in force within the district of any urban authority, such authority shall have all powers, rights, duties, capacities, liabilities, and obligations in relation to such Acts exercisable by or attaching to the council, incorporated commissioners, local board improvement commissioners, and other commissioners or persons acting in the execution of the said Acts or any of them.

* The words in brackets are repealed by Section 89, Local Government Act, 1894.

Where the Baths and Washhouses Acts are not in force within the district of any urban authority, such authority may adopt such Acts; and where the Labouring Classes Lodging-houses Acts are not in force within the district of any urban authority, such authority may adopt such Acts. Sec. 10.

Where any local Act other than an Act for the conservancy of any river is in force within the district of an urban authority, conferring on any commissioners, trustees, or other persons powers for purposes the same as or similar to those of this Act (but not for their own pecuniary benefit), all the powers, rights, duties, capacities, liabilities, and obligations of such commissioners, trustees, or other persons in relation to such purposes shall be transferred and attach to the said urban authority.

144. Every urban authority shall within their district exclusively of any other person execute the office of and be surveyor of highways, and have, exercise, and be subject to all the powers, authorities, duties, and liabilities of surveyors of highways under the law for the time being in force, save so far as such powers, authorities, or duties are or may be inconsistent with the provisions of this Act; every urban authority shall also have, exercise, and be subject to all the powers, authorities, duties, and liabilities, which by the Highway Act, 1835, or any Act amending the same, are vested in and given to the inhabitants in vestry assembled of any parish within their district. Powers of surveyors of highways and of vestries under 5 & 6 W. 4, c. 50, vested in urban authority.

All ministerial acts required by any Act of Parliament to be done by or to the surveyor of highways may be done by or to the surveyor of the urban authority, or by or to such other person as they may appoint.

145. The inhabitants within any urban district shall not in respect of any property situated therein be liable to the payment of highway rate or other payment, not being a toll, in respect of making or repairing roads or highways without such district: Provided that any person who in any place after the passing of this Act ceases under or by virtue of any provision of this Act, or of any order made thereunder, to be surveyor of highways within such place, may recover any highway rate made in respect of such place, and remaining unpaid at the time of his so ceasing to be such surveyor, as if he had not ceased to be such surveyor; and the money so recovered shall be applied, in the first place, in reimbursing himself any expenses incurred by him as such surveyor, and in discharging any debts legally owing by him on account of the highways within his jurisdiction; and the surplus (if any) shall be paid by him to the treasurer of the urban authority, and carried to the fund or rate applicable to the repair of highways within their district. Inhabitants of urban district not liable to rates for roads without district.

146. Any urban authority may agree with any person for the making of roads within their district for the public use through the lands and at the expense of such person, and may agree that such roads shall become and the same shall accordingly become on completion highways maintainable and repairable by the inhabitants at large within their district; they may also, with the consent of two thirds of their number, agree with such person to pay, and may accordingly pay, any portion of the expenses of making such roads. Power of urban authority to agree as to making of new public roads.

147. Any urban authority may agree with the proprietors of any canal, railway, or tramway to adopt and maintain any existing or projected bridge, viaduct, or arch within their district, over or under any such canal, railway, or tramway, and the approaches thereto, and may accordingly adopt and maintain such bridge, viaduct, or arch and Power of urban authority to construct or adopt public bridges, &c.,

Sec. 147.

over or under
canals, &c.

approaches as parts of public streets or roads maintainable and repairable by the inhabitants at large within their district; or such authority may themselves agree to construct any such bridge, viaduct, or arch at the expense of such proprietors; they may also, with the consent of two thirds of their number, agree to pay, and may accordingly pay, any portion of the expenses of the construction or alteration of any such bridge, viaduct, or arch, or of the purchase of any adjoining lands required for the foundation and support thereof, or for the approaches thereto.

Power of
urban authority to enter
into agreements with
turnpike trustees as
to repair, &c.,
of roads.

148. Any urban authority may by agreement with the trustees of any turnpike road, or with any person liable to repair any street or road, or any part thereof, or with the surveyor of any county bridge, take on themselves the maintenance, repair, cleansing, or watering of any such street or road or any part thereof, or of any road over any county bridge, and the approaches thereto, or of any part of the said streets or roads within their district, and may remove any turnpike gates, toll gates, or bars which may be situated within their district, and may erect other turnpike gates, toll gates, or bars in lieu thereof, on such terms as the urban authority and such trustees or person or surveyor as aforesaid may agree on:

Provided—

That where any mortgage debt is charged on the tolls of any such turnpike road, no agreement shall be made for the removal of any of the toll gates or bars thereon, unless with the previous consent in writing of a majority of at least two thirds in value of the mortgagees; and

That where the terms arranged include any annual or other payments from such urban authority to the trustees of any such turnpike road, then the payments may be secured on any fund or rate applicable by such authority to any of the purposes of this Act in the same manner as other charges on any such fund or rate are authorised by this Act.

Any executors, administrators, guardians, trustees, or committee of the estate of any idiot or lunatic, who are as such for the time being entitled to any money charged or secured on the tolls of any such turnpike road, may consent to any such agreement as aforesaid as fully as if they respectively were so entitled in their own right, discharged of all trusts in respect thereof; and all executors, administrators, guardians, trustees, and committees so consenting are hereby severally indemnified for so doing.

Watching
and Lighting
Act (3 & 4
W. 4, c. 90)
to be superseded by
this Act.

163. Where in any place which after the passing of this Act becomes constituted or included in an urban district, or which by virtue of any order of the Local Government Board becomes subject to this enactment, the Act passed in the fourth year of the reign of King William the Fourth, intituled "An Act to repeal an Act of the eleventh year of His late Majesty King George the Fourth, for the lighting and watching of parishes in England and Wales, and to make other provisions in lieu thereof," has been adopted, the said Act shall be superseded by this Act, and all lamps, lamp posts, gas-pipes, fire-engines, hose, and other property vested in the inspectors for the time being under the said Act shall vest in the authority having under this Act jurisdiction in such place.

PUBLIC PLEASURE GROUNDS, &c.

Urban authority may

164. Any urban authority may purchase or take on lease, lay out, plant, improve, and maintain lands for the purpose of being used as

public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever. **Sec. 164.**

Any urban authority may make bye-laws for the regulation of any such public walk or pleasure ground, and may by such bye-laws provide for the removal from such public walk or pleasure ground of any person infringing any such bye-law by any officer of the urban authority or constable. provide places of public recreation.

176. With respect to the purchase of lands by a local authority for the purposes of this Act, the following regulations shall be observed (that is to say): Regulations as to purchase of land.

- (1) The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, shall be incorporated with this Act, except the provisions relating to access to the special Act, and except Section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845:
- (2) The local authority, before putting in force any of the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, shall—

Publish once at the least in each of three consecutive weeks in the month of November, in some local newspaper circulated in their district, an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands that they require; and shall further

Serve a notice in the month of December on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such lands:

- (3) On compliance with the provisions of this section with respect to advertisements and notices, the local authority may, if they think fit, present a petition under their seal to the Local Government Board. The petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of the owners, lessees, and occupiers of lands who have assented, dissented, or are neuter in respect of the taking such lands, or who have returned no answer to the notice; it shall pray that the local authority may, with reference to such lands, be allowed to put in force the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Local Government Board requires:
- (4) On the receipt of such petition and on due proof of the proper advertisements having been published and notices served the Local Government Board shall take such petition into consideration, and may either dismiss the same, or direct a local inquiry as to the propriety of assenting to the prayer of such petition; but until such inquiry has been made, no

Sec. 176.

provisional order shall be made affecting any lands without the consent of the owners, lessees, and occupiers thereof :

- (5) After the completion of such inquiry the Local Government Board may, by provisional order, empower the local authority to put in force, with reference to the lands referred to in such order, the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as the Board may think fit, and it shall be the duty of the local authority to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served :

Provided that the notices by this section required to be given in the months of November and December may be given in the months of September and October or of October and November, but in either of such last-mentioned cases an inquiry preliminary to the provisional order to which such notices refer shall not be held until the expiration of one month from the last day of the second of the two months in which the notices are given ; and any notices or orders by this section required to be served on a number of persons having any right in, over, or on lands in common may be served on any three or more of such persons on behalf of all such persons.

Provision
for lands
belonging to
the Duchy
of Lancaster.

178. The Chancellor and Council of the Duchy of Lancaster for the time being may, if they think fit (but subject and without prejudice to the rights of any lessee, tenant, or occupier), from time to time contract with any local authority for the sale of, and may (subject as aforesaid) absolutely sell and dispose of, for such sum as the said Chancellor and Council may appear sufficient consideration, the whole or any part of any lands belonging to Her Majesty, her heirs or successors in right of the said duchy, or any right, interest, or easement in, through, over, or on any such lands which for the purposes of this Act such local authority from time to time deem it expedient to purchase ; and on payment of the purchase-money, as provided by the Duchy of Lancaster Lands Act, 1855, the said Chancellor and Council may grant and assure to the said authority, under the seal of the said duchy, in the name of Her Majesty, her heirs or successors, the subject of such contract or sale, and such money shall be dealt with as if such subject had been sold under the authority of the Duchy of Lancaster Lands Act, 1855.

Power
to impose
penalties on
breach of
bye-laws.

183. Any local authority may, by any bye-laws made by them under this Act, impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of five pounds for each offence, and in the case of a continuing offence a further penalty not exceeding forty shillings for each day after written notice of the offence from the local authority ; but all such bye-laws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty.

Nothing in the provisions of any Act incorporated herewith shall authorise the imposition or recovery under any bye-laws made in pursuance of such provisions of any greater penalty than the penalties in this section specified.

Confirmation
of bye-laws.

184. Bye-laws made by a local authority under this Act shall not take effect unless and until they have been submitted to and confirmed

by the Local Government Board, which Board is hereby empowered to allow or disallow the same as it may think proper; nor shall any such bye-laws be confirmed— Sec. 184.

Unless notice of intention to apply for confirmation of the same has been given in one or more of the local newspapers circulated within the district to which such bye-laws relate, one month at least before the making of such application; and

Unless for one month at least before any such application a copy of the proposed bye-laws has been kept at the office of the local authority, and has been open during office hours thereat to the inspection of the ratepayers of the district to which such bye-laws relate, without fee or reward.

The clerk of the local authority shall, on the application of any such ratepayer, furnish him with a copy of such proposed bye-laws or any part thereof, on payment of sixpence for every hundred words contained in such copy.

A bye-law required to be confirmed by the Local Government Board shall not require confirmation, allowance, or approval by any other authority.

185. All bye-laws made by a local authority under this Act, or for purposes the same as or similar to those of this Act under any local Act, shall be printed and hung up in the office of such authority; and a copy thereof shall be delivered to any ratepayer of the district to which such bye-laws relate, on his application for the same; a copy of any bye-laws made by a rural authority shall also be transmitted to the overseers of every parish to which such bye-laws relate, to be deposited with the public documents of the parish, and to be open to the inspection of any ratepayer of the parish at all reasonable hours. Bye-laws to be printed, &c.

186. A copy of any bye-laws made under this Act by a local authority (not being the council of a borough), signed and certified by the clerk of such authority to be a true copy and to have been duly confirmed, shall be evidence until the contrary is proved in all legal proceedings of the due making, confirmation, and existence of such bye-laws without further or other proof. Evidence of bye-laws.

199. Every urban authority (not being the council of a borough) shall hold an annual meeting, and other meetings for the transaction of business under this Act once at least in each month, and at such other times as may be necessary for properly executing their powers and duties under this Act. Meetings, &c., of urban authority not being the council of a borough.

Meetings of local boards shall be held and the proceedings thereat shall be conducted in accordance with the rules as to meetings and proceedings contained in Schedule I to this Act; and any improvement commissioners may, if they think fit, adopt all or any of such rules.

202. A rural authority (including any committee so formed as aforesaid) may, at any meeting specially convened for the purpose, form for any contributory place within their district a parochial committee consisting wholly of members of such authority or committee, or partly of such members and partly of such other persons liable to contribute to the rate levied for the relief of the poor in such contributory place, and qualified in such other manner (if any) as the authority forming such parochial committee may determine. Power of rural authority to form parochial committees.

A rural authority (including any committee so formed as aforesaid)

Sec. 202. may from time to time add to or diminish the number of the members, or otherwise alter the constitution of any parochial committee formed by it, or dissolve any parochial committee.

A parochial committee shall be subject to any regulations and restrictions which may be imposed by the authority which formed it: Provided that no jurisdiction shall be given to a parochial committee beyond the limits of the contributory place for which it is formed, and that no powers shall be delegated to a parochial committee except powers which the rural authority could exercise within such contributory place.

A parochial committee shall be deemed to be the agents of the authority which formed it, and the appointment of such committee shall not relieve that authority from any obligation imposed on it by Act of Parliament or otherwise.

A parochial committee may be empowered by the authority which formed it to incur expenses to an amount not exceeding such amount as may be prescribed by such authority; it shall report its expenditure to such authority as and when directed by such authority, and the amount so reported, if legally incurred, shall be discharged by such authority.

Mode of
defraying
expenses of
urban
authority.

207. All expenses incurred or payable by an urban authority in the execution of this Act, and not otherwise provided for, shall be charged on and defrayed out of the district fund and general district rate leviable by them under this Act, subject to the following exceptions (namely):

That if in any district the expenses incurred by an urban authority (being the council of a borough) in the execution of the Sanitary Acts were at the time of the passing of this Act payable out of the borough fund or borough rate, then the expenses incurred by that authority in the execution of this Act shall be charged on and defrayed out of the borough fund or borough rate; and

That if in any district the expenses incurred by an urban authority (being improvement commissioners) in the execution of the Sanitary Acts were at the time of the passing of this Act payable out of any rate in the nature of a general district rate leviable by them as such commissioners throughout the whole of their district, then the expenses incurred by that authority in the execution of this Act shall be charged on and defrayed out of such rate; and for the purposes of this section the council of the borough of Folkestone shall be deemed to be improvement commissioners; and

That where at the time of the passing of this Act the expenses incurred by an urban authority in the execution of certain purposes of the Sanitary Acts were payable out of the borough fund and borough rate, and the expenses incurred by such authority in the execution of the other purposes of the said Acts were payable out of a rate or rates leviable by that authority throughout the whole of their district for paying, sewerage, or other sanitary purposes, then the expenses incurred by that authority in the execution of the same or similar purposes respectively under this Act shall respectively be charged on and defrayed out of the borough fund and borough rate, and out of the rate or rates leviable as aforesaid.

Power in
certain cases

208. Where at the time of the passing of this Act the expenses incurred by an urban authority for sanitary purposes are payable

otherwise than in the manner provided by the Local Government Acts, the Local Government Board may, on the application of such authority, or of any ten persons rated to the relief of the poor within the district, declare by provisional order that the expenses of such authority incurred in the execution of this Act shall be defrayed out of a district fund and general district rate to be levied by them under this Act, subject to the provisions of this Act with respect to the mode of defraying in certain cases the expenses of the repair of highways.

Sec. 208.
by provisional order to alter mode.

General District Rate.

209. In the district of every urban authority whose expenses under this Act are directed to be defrayed out of the district fund and general district rate there shall be continued or established a fund called the district fund: a separate account called "the district fund account" of all moneys carried under this Act to the account of that fund shall be kept by the treasurer of the urban authority; and such moneys shall be applied by the urban authority in defraying such of the expenses chargeable thereon under this Act as they may think proper.

District fund account.

210. For the purpose of defraying any expenses chargeable on the district fund which that fund is insufficient to meet, the urban authority shall from time to time, as occasion may require, make by writing under their common seal, and levy in addition to any other rate leviable by them under this Act, a rate or rates to be called "general district rates."

Making general district rate.

Any such rate may be made and levied either prospectively in order to raise money for the payment of future charges and expenses, or retrospectively in order to raise money for the payment of charges and expenses incurred at any time within six months before the making of the rate: in calculating the period of six months during which the rate may be made retrospectively, the time during which any appeal or other proceeding relating to such rate is pending shall be excluded.

Public notice of intention to make any such rate, and of the time when it is intended to make the same, and of the place where a statement of the proposed rate is deposited for inspection, shall be given by the urban authority in the week immediately before the day on which the rate is intended to be made, and at least seven days previously thereto; but in case of proceedings to levy or recover any rate it shall not be necessary to prove that such notice was given.

211. With respect to the assessment and levying of general district rates under this Act the following provisions shall have effect (namely):

Assessment, &c., of general district rate.

- (1) General district rates shall be made and levied on the occupier of all kinds of property for the time being by law assessable to any rate for the relief of the poor, and shall be assessed on the full net annual value of such property, ascertained by the valuation list for the time being in force, or, if there is none, by the rate for the relief of the poor made next before the making of the assessment under this Act, subject to the following exceptions, regulations, and conditions (namely):

- (a) The owner, instead of the occupier, may at the option of the urban authority be rated in cases—

Where the rateable value of any premises liable to assessment under this Act does not exceed the sum of ten pounds; or

Sec. 211.

Where any premises so liable are let to weekly or monthly tenants; or

Where any premises so liable are let in separate apartments, or where the rents become payable or are collected at any shorter period than quarterly:

Provided that in cases where the owner is rated instead of the occupier he shall be assessed on such reduced estimate as the urban authority deem reasonable of the net annual value, not being less than two thirds nor more than four fifths of the net annual value; and where such reduced estimate is in respect of tenements whether occupied or unoccupied, then such assessment may be made on one half of the amount at which such tenements would be liable to be rated if the same were occupied and the rate were levied on the occupiers.

- (b) The owner of any tithes, or of any tithe commutation rent charge, or the occupier of any land used as arable, meadow, or pasture ground only, or as woodlands, market gardens, or nursery grounds, and the occupier of any land covered with water, or used only as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall be assessed in respect of the same in the proportion of one fourth part only of such net annual value thereof.
 - (c) If within any urban district or part of such district any kind of property is exempted from rating by any local Act in respect of all or any of the purposes for which general district rates may be made under this Act, the same kind of property shall, in respect of the same purposes, and to the same extent within the parts to which the exemption applies (but not further or otherwise), be exempt from assessment to any general district rates under this Act unless the Local Government Board by provisional order otherwise direct.
- (2) If at the time of making any general district rate any premises in respect of which the rate may be made are unoccupied, such premises shall be included in the rate, but the rate shall not be charged on any person in respect of the same while they continue to be unoccupied; and if any such premises are afterwards occupied during any part of the period for which the rate was made, and before the same has been fully paid, the name of the incoming tenant shall be inserted in the rate, and thereupon so much of the rate as at the commencement of his tenancy may be in proportion to the remainder of the said period shall be collected, recovered, and paid in the same manner in all respects as if the premises had been occupied at the time when the rate was made.
- (3) If any owner or occupier assessed or liable to any such rate ceases to be owner or occupier of the premises in respect whereof he is so assessed or liable, before the end of the period for which the rate was made, and before the same is fully paid off, he shall be liable to pay only such part of the rate as may be in proportion to the time during which he continues to be such owner or occupier; and in every such case if any person afterwards become owner or occupier of the premises during part of the said period, he shall pay such part of the

rate as may be in proportion to the time during which he continues to be such owner or occupier, and the same shall be recovered from him in the same manner as if he had been originally assessed or liable. Sec. 211.

- (4) The urban authority may divide their district or any street therein into parts for all or any of the purposes of this Act, and from time to time abolish or alter any such divisions, and may make a separate assessment on any such part for all or any of the purposes for which the same is formed; and every such part, so far as relates to the purposes in respect of which such separate assessment is made, shall be exempt from any other assessment under this Act: Provided that if any expenses are incurred or to be incurred in respect of two or more parts in common, the same shall be apportioned between them in a fair and equitable manner.

212. For the purpose of assessing general district rates any person appointed by the urban authority may inspect, take copies of, or make extracts from any valuation list or rate for the relief of the poor within the district, or any book relating to the same. Inspection of
poor rate
books for
purposes of
assessment.

Any officer having the custody of any such rate or book who refuses to permit such inspection, or the taking of such copies or extract, shall be liable to a penalty not exceeding five pounds.

Highway Rate.

216. In any urban district where the expenses under this Act of the urban authority are charged on and defrayed out of the district fund and general district rates, and no other mode of providing for repair of highways is directed by any local Act, the cost of repair of highways shall be defrayed as follows (that is to say): Costs of
repairs of
highways.

- (1) Where the whole of the district is rated for works of paving, water supply, and sewerage, or for works for such of these purposes as are provided for in the district, the cost of repair of highways shall be defrayed out of the general district rate:
- (2) Where parts of the district are not rated for works of paving, water supply, and sewerage, or for such of these purposes as are provided for in the district, the cost of repair of highways in those parts shall be defrayed out of a highway rate to be separately assessed and levied in those parts by the urban authority as surveyor of highways, and the cost of such repair in the residue of the district shall be defrayed out of the general district rate:
- (3) Where no public works of paving, water supply, and sewerage are established in the district, the cost of repair of highways in the district shall be defrayed out of a highway rate, to be levied throughout the whole district by the urban authority as surveyor of highways:

Provided that where part of a parish is included within an urban district, and the excluded part was, before the constitution of that district, liable to contribute to the highway rates for such parish, such excluded part shall (unless in the case of an urban district constituted before the passing of this Act a resolution deciding that such excluded part should be formed into a separate highway district has been passed in pursuance of the Local Government Act, 1858 (Amendment Act) 1861, or unless such excluded part has been included in a highway district under the Highway Acts, for all purposes connected with the repairs of highways and the payment of highway rates) be considered to be and be treated as forming part of such district.

Sec. 216. Provided also, that in the case of an urban district constituted after the passing of this Act a meeting of owners and ratepayers of the excluded part (to be convened and conducted in the manner provided by Schedule 3 to this Act) may decide that such excluded part shall be a highway parish, and thereupon the excluded part shall for all purposes connected with highways, surveyors of highways, and highway rates, be considered and treated as a parish maintaining its own highways; but the requisition for holding any such meeting shall be made within six months after the constitution of the urban district.

The court of quarter sessions may by order direct that for any such excluded part a waywarden or waywardens shall be elected, and may invest any waywarden elected in pursuance of any such order with all or any of the powers of waywardens under the Highway Acts.

Publication
and collec-
tion of rates.

222. All rates made or collected under this Act shall be published in the same manner as poor rates, and shall commence and be payable at such time or times, and shall be made in such manner and form, and be collected by such persons, and either together or separately, or with any other rate or tax, as the urban authority may from time to time appoint: Provided that no publication shall be required of any private improvement rate.

Evidence of
rates.

223. The production of the books purporting to contain any rate or assessment made under this Act shall, without any other evidence whatever, be received as *prima facie* evidence of the making and validity of the rates mentioned therein.

Expenses of Rural Authority.

Expenses of
rural autho-
rity.

229. The expenses incurred by a rural authority in the execution of this Act shall be divided into general expenses and special expenses.

General expenses (other than those chargeable on owners and occupiers under this Act) shall be the expenses of the establishment and officers of the rural authority, the expenses in relation to disinfection, the providing conveyance for infected persons, and all other expenses not determined by this Act or by order of the Local Government Board to be special expenses.

Special expenses shall be the expenses of the construction, maintenance, and cleansing of sewers in any contributory place within the district, the providing a supply of water to any such place, and maintaining any necessary works for that purpose, if and so far as the expenses of such supply and works are not defrayed out of water rates or rents under this Act, the charges and expenses arising out of or incidental to the possession of property transferred to the rural authority in trust for any contributory place, and all other expenses incurred or payable by the rural authority in or in respect of any contributory place within the district, and determined by order of the Local Government Board to be special expenses.

Where the rural authority make any sewers or provide any water supply or execute any other work under this Act for the common benefit of any two or more contributory places within their district, they may apportion the expense of constructing any such work, and of maintaining the same, in such proportions as they think just, between such contributory places, and any expense so apportioned to any such contributory place shall be deemed to be special expenses legally incurred in respect of such contributory place.

The overseers of any contributory place, if aggrieved by any such

apportionment, may, within twenty-one days after notice has been given to them of the apportionment, send or deliver a memorial to the Local Government Board stating their grounds of complaint, and the said Board may make such order in the matter as to it may seem equitable, and the order so made shall be binding and conclusive on all parties concerned. Sec. 229.

General expenses shall be payable out of a common fund to be raised out of the poor rate of the parishes in the district according to the rateable value of each contributory place in manner in this Act mentioned.

Special expenses shall be a separate charge on each contributory place.

The following areas situated in a rural district shall be contributory places for the purposes of this Act ; that is to say, Definition of contributory place.

- (1) Every parish not having any part of its area within the limits of a special drainage district formed in pursuance of the sanitary Acts or of this Act, or of an urban district ; and
- (2) Every such special drainage district as aforesaid ; and
- (3) In the case of a parish wholly situated in a rural district, and part of which forms or is part of any such special drainage district as aforesaid, such portion of that parish as is not comprised within such special drainage district ; and
- (4) In the case of a parish a part of which is situated within an urban district, such portion of that parish as is not comprised within such urban district, or within any such special drainage district as aforesaid.

230. For the purpose of obtaining payment from the several contributory places within their district of the sums to be contributed by them, the rural authority shall issue their precept to the overseers of each such contributory place requiring such overseers to pay, within a time limited by the precept, the amount specified in such precept to the rural authority or to some person appointed by them, care being taken to issue separate precepts in respect of contributions for general expenses and special expenses, or to make such expenses respectively separate items in any precept including both classes of expenses. Mode of raising contributions in rural district.

Where a contributory place is part of a parish as defined by this Act, the overseers of such parish shall for the purposes of this Act be deemed to be the overseers of such contributory place, and where any part of a contributory place is part of a parish the overseers of such parish shall for the like purposes be deemed to be the overseers of such part of such contributory place.

The overseers shall comply with the requisitions of such precept by paying the contribution required in respect of general expenses out of the poor rate of their respective parishes, and with respect to special expenses by raising the contribution required by the levy (in the case of an entire parish on the whole of such parish, and in the case of a contributory place or part of a contributory place forming part of a parish, by the levy on such place, or such part thereof, exclusive of the rest of the parish) of a separate rate in the same manner as if it were a rate for the relief of the poor, with this exception (namely) :

That the owner of any tithes, or of any tithe commutation rent-charge, or the occupier of any land used as arable meadow or pasture ground only, or as woodlands,* market gardens, or nursery grounds, and the occupier of any land covered with water, or used as a canal or towing-path for the same, or as a railway

* "Orchards" were added by the Public Health (Rating of Orchards) Act, 1890.

Sec. 230.

constructed under the powers of any Act of Parliament for public conveyance, shall, where a special assessment is made for the purposes of such rate, be assessed in respect of one fourth part only of the rateable value thereof, or where no special assessment is made shall pay in respect of the said property one fourth part only of the rate in the pound payable in respect of houses and other property :

Provided that where the amount required by any precept or precepts from a contributory place in respect of special expenses is less than ten pounds, or is so small that a rate less than one penny in the pound would be required to raise the same, the overseers shall not assess and levy any special rate for the same, but shall pay the amount as if it formed part of the contribution required from them in respect of general expenses.

A separate rate under this section shall, as respects the powers of the overseers in relation to making, assessing, and levying such rate, and as respects the appeal against such rate, and all other incidents thereof except the purposes to which it is applicable, and such exemption as aforesaid, and except the allowance of justices, which shall not be required, be subject to the same provisions as apply in law to a rate levied for the relief of the poor; and the overseers of a parish shall have the same powers of levying such separate rate in a contributory place or part of a contributory place forming part of their parish, as they would have if such contributory place or such part thereof formed the whole of their parish.

Where a contribution for general expenses is required from a contributory place or part of a contributory place which is part of a parish, the overseers shall from time to time levy such increase of rate from the contributory place or such part thereof as may be sufficient to recoup the parish for the sum it has paid on account of the contributory place or such part thereof in respect of general expenses under this Act, and carry the same to the general account of the parish, and such increase of rate shall be raised in such contributory place or part of a contributory place by an addition to the poor rate, or by a separate rate to be assessed, made, allowed, published, collected, and levied in the same manner as a poor rate. The officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect any separate rate made under this section, and receive out of such separate rate such remuneration for the additional duty as the overseers with the consent of the vestry may determine.

The overseers shall at the expiration of their term of office pay any surplus in their hands arising from any separate rate levied in pursuance of this Act, above the amount for which the rate was made, to the rural authority or to such person as they may appoint, to the credit of the contributory place within which or within part of which such rate was made, and such surplus shall go in reduction of the next call that may be made on such contributory place or such part thereof for the purpose of defraying the expenses incurred by the rural authority.

BORROWING POWERS.

Power to
borrow on
credit of
rates.

233. Any local authority may, with the sanction of the Local Government Board, for the purpose of defraying any costs, charges, and expenses incurred or to be incurred by them in the execution of the Sanitary Acts or of this Act, or for the purpose of discharging any loans contracted under the Sanitary Acts or this Act, borrow or re-borrow, and take up at interest, any sums of money necessary for

defraying any such costs, charges, and expenses, or for discharging any such loans as aforesaid. Sec. 233.

An urban authority may borrow or re-borrow any such sums on the credit of any fund or all or any rates or rate out of which they are authorised to defray expenses incurred by them in the execution of this Act, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund or rates or rate.

A rural authority may borrow or re-borrow any such sums, if applied or intended to be applied to general expenses of such authority, on the credit of the common fund out of which such expenses are payable, and if applied or intended to be applied to special expenses of such authority, on the credit of any rate or rates out of which such expenses are payable, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund, rate, or rates.

234. The exercise of the powers of borrowing conferred by this Act shall be subject to the following regulations (namely): Regulations as to exercise of borrowing powers.

- (1) Money shall not be borrowed except for permanent works (including under this expression any works of which the cost ought in the opinion of the Local Government Board to be spread over a term of years):
- (2) The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable within the district in respect of which such money may be borrowed:*
- (3) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local Government Board shall not give their sanction to such loan until one of their inspectors has held a local inquiry and reported to the said Board:
- (4) The money may be borrowed for such time, not exceeding sixty years, as the local authority, with the sanction of the Local Government Board, determine in each case; and, subject as aforesaid, the local authority shall either pay off the moneys so borrowed by equal annual instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Exchequer bills or other Government securities, such sum as will with accumulations in the way of compound interest be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned:
- (5) A local authority may at any time apply the whole or any part of a sinking fund set apart under this Act in or towards the discharge of the moneys for the repayment of which the fund has been established: Provided that they pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund on the part of the sinking fund so applied:

* See Section 12 (1), Local Government Act, 1894 (p. 93).

- Sec. 234.** (6) Where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned, unless with the sanction of the Local Government Board, and shall in no case be extended beyond the period of sixty years from the date of the original loan.

Where any urban authority borrow any money for the purpose of defraying private improvement expenses, or expenses in respect of which they have determined a part only of the district to be liable, it shall be the duty of such authority, as between the ratepayers of the district, to make good, so far as they can, the money so borrowed, as occasion requires, either out of private improvement rates, or out of a rate levied in such part of the district as aforesaid.

Form of mortgage.

236. Every mortgage authorised to be made under this Act shall be by deed, truly stating the date consideration and the time and place of payment, and shall be sealed with the common seal of the local authority, and may be made according to the form contained in Schedule 4* to this Act, or to the like effect.

Register of mortgages.

237. There shall be kept at the office of the local authority a register of the mortgages on each rate, and within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and description of the parties thereto, as stated in the deed. Every such register shall be open to public inspection during office hours at the said office, without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding five pounds.

Transfer of mortgages.

238. Any mortgagee or other person entitled to any mortgage under this Act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date and the considera-

* The form referred to in Schedule 4 is as follows :

FORM H.

Form of Mortgage of Rates.

By virtue of the Public Health Act, 1875, we the being the local authority under that Act for the district of in consideration of the sum of paid to the treasurer of the said district by *A. B.* of for the purposes of the said Act, do grant and assign unto the said *A. B.*, his executors, administrators, and assigns, such proportion of the rates arising or accruing by virtue of the said Act from [*the rates mortgaged*] as the said sum of doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said rates, to hold to the said *A. B.*, his executors, administrators, and assigns, from the day of the date hereof until the said sum of with interest at the rate of per centum per annum for the same, shall be fully paid and satisfied; And it is hereby declared, that the said principal sum shall be repaid on the day of at [*place of payment*]. Dated this day of One thousand eight hundred and .

[*To be sealed with the common seal of the local authority.*]

tion for the transfer; and such transfers may be according to the form contained in Schedule 4* to this Act, or to the like effect. Sec. 238.

There shall be kept at the office of the local authority a register of the transfers of mortgage charged on each rate, and within thirty days after the date of such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom if executed elsewhere, the same shall be produced to the clerk of the local authority, who shall, on payment of a sum not exceeding five shillings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer; and until such entry is made the local authority shall not be in any manner responsible to the transferee.

On the registration of any transfer the transferee, his executors or administrators, shall be entitled to the full benefit of the original mortgage and the principal and interest secured thereby; and any transferee may in like manner transfer his estate and interest in any such mortgage; and no person except the last transferee, his executors or administrators, shall be entitled to release or discharge any such mortgage or any money secured thereby.

If the clerk of the local authority wilfully neglects or refuses to make in the register any entry by this section required to be made, he shall be liable to a penalty not exceeding twenty pounds.

239. If at the expiration of six months from the time when any principal money or interest has become due on any mortgage of rates made under this Act, and after demand in writing, the same is not paid, the mortgagee or other person entitled thereto may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to a court of summary jurisdiction; and such court may, after hearing the parties, appoint in writing under their hands and seals some person to collect and receive the whole or a competent part of the rates liable to the payment of the principal or interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and of collection, are fully paid. Receiver may be appointed in certain cases.

On such appointment being made all such rates, or such competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees of such rates, and shall be rateably apportioned between them:

* The form referred to in Schedule 4 is as follows:

FORM I.

Form of Transfer of Mortgage.

I, *A. B.*, of _____, in consideration of the sum of _____ paid to me by *C. D.*, of _____, do hereby transfer to the said *C. D.*, his executors, administrators, and assigns, a certain mortgage, bearing date the _____ day of _____, and made by the local authority under the Public Health Act, 1875, for the district of _____ for securing the sum of _____ and interest thereon at _____ per centum per annum [*or if such transfer be by endorsement on the mortgage, insert, instead of the words immediately following the word "assigns," the within security*], and all my right, estate, and interest in and to the money thereby secured, and in and to the rates thereby assigned. In witness whereof I have hereunto set my hand and seal this _____ day of _____ One thousand eight hundred and _____.

A. B. (L.S.)

Sec. 239. Provided that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application is made by two or more mortgagees or other persons to whom there may be due, after such lapse of time and demand as last aforesaid, moneys collectively amounting to that sum.

Power of
Public Works
Loan Com-
missioners to
lend to local
authority.

242. The Public Works Loan Commissioners may, if they see fit, on the application of any local authority, make any loan to such authority for any of the purposes of this Act on the security of any fund or rate applicable to any of the purposes of this Act, without requiring any further or other security.

Audit where
urban autho-
rity are not a
town council.

247. Where an urban authority are not the council of a borough the following regulations with respect to audit shall be observed (namely):

- (1) The accounts of the receipts and expenditure under this Act of such authority shall be audited and examined once in every year, as soon as can be after the twenty-fifth day of March, by the auditor of accounts relating to the relief of the poor for the union in which the district of such authority or the greater part thereof is situate, unless such auditor is a member of the authority whose accounts he is appointed to audit, in which case such accounts shall be audited by such auditor of any adjoining union as may from time to time be appointed by the Local Government Board:
- (2) There shall be paid to such auditor in respect of each audit under this Act, such reasonable remuneration, not being less than two guineas for every day in which he is employed in such audit, as such authority from time to time appoint, together with his expenses of travelling to and from the place of audit:
- (3) Before each audit such authority shall, after receiving from the auditor the requisite appointment, give at least fourteen days' notice of the time and place at which the same will be made, and of the deposit of accounts required by this section, by advertisement in some one or more of the local newspapers circulated in the district; and the production of the newspaper containing such notice shall be deemed to be sufficient proof of such notice on any proceeding whatsoever:
- (4) A copy of the accounts duly made up and balanced, together with all rate books, account books, deeds, contracts, accounts, vouchers, and receipts mentioned or referred to in such accounts, shall be deposited in the office of such authority, and be open, during office hours thereat, to the inspection of all persons interested for seven clear days before the audit, and all such persons shall be at liberty to take copies of or extracts from the same, without fee or reward; and any officer of such authority duly appointed in that behalf neglecting to make up such accounts and books, or altering such accounts and books, or allowing them to be altered when so made up, or refusing to allow inspection thereof, shall be liable to a penalty not exceeding five pounds:
- (5) For the purpose of any audit under this Act, every auditor may, by summons in writing, require the production before him of all books, deeds, contracts, accounts, vouchers, receipts, and other documents and papers which he may deem neces-

sary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, receipts, documents, or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same; and if any such person neglects or refuses so to do, or to produce any such books, deeds, contracts, accounts, vouchers, receipts, documents, or papers, or to make or sign such declaration, he shall incur for every neglect or refusal a penalty not exceeding forty shillings; and if he falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury: Sec. 247.

- (6) Any ratepayer or owner of property in the district may be present at the audit, and may make any objection to such accounts before the auditor; and such ratepayers and owners shall have the same right of appeal against allowances by an auditor as they have by law against disallowances:
- (7) Any auditor acting in pursuance of this section shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person, and on application by any party aggrieved shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made:
- (8) Any person aggrieved by disallowance made may apply to the Court of Queen's Bench for a writ of certiorari to remove the disallowance into the said court, in the same manner and subject to the same conditions as are provided in the case of disallowances by auditors under the laws for the time being in force with regard to the relief of the poor; and the said court shall have the same powers with respect to allowances, disallowances, and surcharges under this Act as it has with respect to disallowances or allowances by the said auditors; or in lieu of such application any person so aggrieved may appeal to the Local Government Board, which board shall have the same powers in the case of the appeal as it possesses in the case of appeals against allowances, disallowances, and surcharges by the said poor law auditors:
- (9) Every sum certified to be due from any person by an auditor under this Act shall be paid by such person to the treasurer of such authority within fourteen days after the same has been so certified, unless there is an appeal against the decision; and if such sum is not so paid, and there is no such appeal, the auditor shall recover the same from the person against whom the same has been certified to be due by the like process and with the like powers as in the case of sums certified on the audit of the poor rate accounts, and shall be paid by such authority all such costs and expenses, including a reasonable compensation for loss of time incurred by him in such proceedings, as are not recovered by him from such person:
- (10) Within fourteen days after the completion of the audit, the auditor shall report on the accounts audited and examined,

Sec. 247.

and shall deliver such report to the clerk of such authority, who shall cause the same to be deposited in their office, and shall publish an abstract of such accounts in some one or more of the local newspapers circulated in the district.

Where the provisions as to audit of any local Act constituting a board of improvement commissioners are repugnant to or inconsistent with those of this Act, the audit of the accounts of such improvement commissioners shall be conducted in all respects in accordance with the provisions of this Act.

Taxation of
bill of
solicitor or
attorney.

249. On the application of any local authority whose accounts are required by this Act to be audited to the clerk of the peace of the county in which the district of such authority is wholly or in part situated, the said clerk or his deputy shall tax any bill due to any solicitor or attorney in respect of legal business performed on behalf of such authority; and the allowance of any sum on such taxation shall be *primâ facie* evidence of the reasonableness of the amount, but not of the legality of the charge.

The clerk of the peace shall be allowed for such taxation a remuneration after the rate to be fixed by the master of the Crown Office, and declared by an order of the Local Government Board.

If any such bill is not taxed by the clerk of the peace or some other duly authorised taxing officer before being presented to the auditors or auditor, the decision of the auditors or auditor upon the reasonableness and the legality of the charge shall be final.

Auditor to
audit ac-
counts of
officers.

250. The accounts under this Act of officers or assistants of any local authority who are required to receive moneys or goods on behalf of such authority shall be audited by the auditors or auditor of the accounts of such authority, with the same powers, incidents, and consequences, as in the case of such last-mentioned accounts.

Local
Government
Board may
invest rural
authority
with powers
of urban
authority.

276. The Local Government Board may, on the application of the authority of any rural district, or of persons rated to the relief of the poor, the assessment of whose hereditaments amounts at the least to one tenth of the net rateable value of such district, or of any contributory place therein, by order to be published in the 'London Gazette,' or in such other manner as the Local Government Board may direct, declare any provisions of this Act in force in urban districts to be in force in such rural district or contributory place, and may invest such authority with all or any of the powers, rights, duties, capacities, liabilities, and obligations of an urban authority under this Act, and such investment may be made either unconditionally or subject to any conditions to be specified by the Board as to the time, portion of the district, or manner during at and in which such powers, rights, duties, liabilities, capacities, and obligations are to be exercised and attach: Provided that an order of the Local Government Board made on the application of one tenth of the persons rated to the relief of the poor in any contributory place shall not invest the rural authority with any new powers beyond the limits of such contributory place.

Power of
Board to
direct
inquiries.

293. The Local Government Board may from time to time cause to be made such inquiries as are directed by this Act, and such inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction, approval, or consent is required by this Act.

294. The Local Government Board may make orders as to the costs of inquiries or proceedings instituted by, or of appeals to the said Board under this Act, and as to the parties by whom or the rates out of which such costs shall be borne; and every such order may be made a rule of one of the superior courts of law on the application of any person named therein.

Orders as to costs of inquiries.

295. All orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as that Board may direct.

Orders of Board under this Act.

296. Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts.

Power of inspectors of Local Government Board.

Provisional Orders by Board.

297. With respect to provisional orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made:

As to provisional orders made by Local Government Board.

- (1) The Local Government Board shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates:
- (2) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject-matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections.

Power of Board to enforce Performance of Duty by Defaulting Local Authority.

299. Where complaint is made to the Local Government Board that a local authority has made default in providing their district with sufficient sewers, or in the maintenance of existing sewers, or in providing their district with a supply of water, in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or that a local authority has made default in enforcing any provisions of this Act which it is their duty to enforce, the Local Government Board, if satisfied after due inquiry that the authority has been guilty of the alleged default, shall make an order limiting a time for the performance of their duty in the matter of such complaint. If such duty is not performed by the time limited in the order, such order may be enforced by writ of mandamus, or the Local Government Board may appoint some person to perform such duty, and shall by order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, together with the costs of the proceedings, shall be paid by

Proceedings on complaint to Board of default of local authority.

Sec. 299. the authority in default; and any order made for the payment of such expenses and costs may be removed into the Court of Queen's Bench, and be enforced in the same manner as if the same were an order of such court.

Any person appointed under this section to perform the duty of a defaulting local authority shall, in the performance and for the purposes of such duty, be invested with all the powers of such authority other than (save as hereinafter provided) the powers of levying rates; and the Local Government Board may from time to time by order change any person so appointed.

Further provision for recovery of expenses.

300. Any sum specified in an order of the Local Government Board for payment of the expenses of performing the duty of a defaulting local authority, together with the costs of the proceedings, shall be deemed to be expenses properly incurred by such authority, and to be a debt due from such authority, and payable out of any moneys in the hands of such authority or of their officers, or out of any rate applicable to the payment of any expenses properly incurred by such authority, which rate is in this part of this Act referred to as the "local rate." If the defaulting authority refuses to pay any such sum, with costs, as aforesaid, for a period of fourteen days after demand, the Local Government Board may by order empower any person to levy, by and out of the local rate, such sum (the amount to be specified in the order) as may, in the opinion of the Local Government Board, be sufficient to defray the debt so due from the defaulting authority, and all expenses incurred in consequence of the non-payment of such debt.

Any person or persons so empowered shall have the same powers of levying the local rate, and requiring all officers of the defaulting authority to pay over any moneys in their hands, as the defaulting authority would have in the case of expenses legally payable out of a local rate to be raised by such authority; and the said person or persons, after repaying all sums of money so due in respect of the order, shall pay the surplus, if any (the amount to be ascertained by the Local Government Board), to or to the order of the defaulting authority.

Power of Board to borrow to defray expenses of performing duty of defaulting authority.

301. The Local Government Board may from time to time certify the amount of expenses that have been incurred, or an estimate of the expenses about to be incurred, by any person appointed by the said Board under this Act to perform the duty of a defaulting local authority; also, the amount of any loan required to be raised for the purpose of defraying any expenses that have been so incurred, or are estimated as about to be incurred; and the certificate of the said Board shall be conclusive as to all matters to which it relates.

Whenever the Local Government Board so certifies a loan to be required, the Public Works Loan Commissioners may advance to the Local Government Board, or to any person appointed as aforesaid, the amount of the loan so certified to be required on the security of the local rate, without requiring any other security; and the Local Government Board, or the person so appointed, may, by any instrument duly executed, charge the local rate with the repayment of the principal and interest due in respect of such loan, and every such charge shall have the same effect as if the defaulting local authority were empowered to raise such loan on the security of the local rate and had duly executed an instrument charging the same on the local rate.

302. Any principal money or interest for the time being due in respect of any loan under this Act made for payment of the expenses incurred or to be incurred in the performance of the duty of a defaulting local authority shall be taken to be a debt due from such authority, and in addition to any other remedies, may be recovered in the manner in which a debt due from a defaulting authority may be recovered in pursuance of the provisions of this part of this Act.

Recovery of principal and interest.

The surplus (if any) of any such loan, after payment of the expenses aforesaid, shall, on the amount thereof being certified by the Local Government Board, be paid to or to the order of the defaulting authority.

"Expenses," for the purposes of the provisions of this part of this Act relating to defaulting local authorities, shall include all sums payable under those provisions by or by the order of the Local Government Board, or the person appointed by that board.

SCHEDULE 1.

RULES AS TO MEETINGS AND PROCEEDINGS.

(1) *Rules applicable to Local Boards.*

1. Every local board shall from time to time make regulations with respect to the summoning notice, place, management, and adjournment of their meetings, and generally with respect to the transaction and management of their business under this Act.

2. No business shall be transacted at any such meeting unless at least one third of the full number of members be present thereat, subject to this qualification, that in no case shall a larger quorum than seven members be required.

3. Every local board shall from time to time at their annual meeting appoint one of their number to be chairman for one year at all meetings at which he is present.

4. If the chairman so appointed dies, resigns, or becomes incapable of acting, another member shall be appointed to be chairman for the period during which the person so dying, resigning, or becoming incapable would have been entitled to continue in office and no longer.

5. If the chairman is absent from any meeting at the time appointed for holding the same, the members present shall appoint one of their number to act as chairman thereat.

6. The names of the members present, as well as of those voting on each question, shall be recorded, so as to show whether each vote given was for or against the question.

7. Every question at a meeting shall be decided by a majority of votes of the members present and voting on that question.

8. In case of an equal division of votes the chairman shall have a second or casting vote.

9. The proceedings of a local board shall not be invalidated by any vacancy or vacancies among their members, or by any defect in the election of such board, or in the election or selection or qualification of any members thereof.

10. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, if purporting to

be signed by the chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

11. The annual meeting of a local board shall be held as soon as may be convenient after the fifteenth of April in each year.

12. The first meeting of a local board for a district constituted after the passing of this Act shall be held at such place and on such day (not being more than ten days after the completion of the election) as the returning officer may by written notice to each member of the board appoint; and the members shall appoint one of their number to be chairman at such meeting, and shall also appoint one of their number to be chairman for one year at all meetings at which he is present.

13. Nothing in these rules contained with respect to the appointment of chairman shall apply to the Oxford district, and in that district a chairman shall be appointed as heretofore.

(2) *Rules applicable to . . . Joint Boards.**

1. A . . . joint board may meet and adjourn as it thinks proper.

2. The quorum of a . . . joint board shall consist of such number of members as may be prescribed by the authority that appointed the . . . joint board, or, if no number is prescribed, of three members.

3. A . . . joint board may appoint a chairman of its meetings.

4. If no chairman is elected, or if the chairman elected is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be chairman of such meeting.

5. Every question at a meeting shall be determined by a majority of votes of the members present and voting on that question.

6. In case of an equal division of votes the chairman shall have a second or casting vote.

7. The proceedings of a . . . joint board shall not be invalidated by reason of any vacancy or vacancies amongst their members, or any defect in the mode of appointment of such . . . joint board or of any member thereof.

8. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, purporting to be signed by the chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

* By Section 59 (1), Local Government Act, 1894, the above Schedule, so far as unrepealed, is made applicable to district councils (except borough councils) and boards of guardians. The portions replaced by dots are repealed by Section 89 (p. 193) and Schedule II (p. 201) of the Local Government Act, 1894.

PUBLIC IMPROVEMENTS ACT, 1860.

23 & 24 VICT., C. 30.

An Act to enable a Majority of Two Thirds of the Ratepayers of any Parish or District, duly assembled, to rate their District in aid of Public Improvements for general Benefit within their District. [3rd July, 1860.]

WHEREAS it is expedient that facility should be given for the purpose of effecting local improvements beneficial to the health and comfort of the people: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. It shall be lawful for the ratepayers of any parish maintaining its own poor, the population of which, according to the last account from time to time taken thereof by the authority of Parliament, exceeds five hundred persons,* to purchase or lease lands, and to accept gifts and grants of land, for the purpose of forming any public walk, exercise or play ground, and to levy rates for maintaining the same, and for removal of any nuisances or obstruction to the free use and enjoyment thereof, and for improving any open walk or footpath, or placing convenient seats, or shelters from rain, and for other purposes of a similar nature. Ratepayers may hold land, &c., for purpose of forming public walks, &c., and levy rates for maintaining the same, &c.

2. This Act may be adopted for any borough, or for any parish having a population of five hundred or upwards (according to the last account for the time taken by authority of Parliament), in the same manner as the Act of the ninth and tenth Victoria, Chapter seventy-four,† may be adopted in such borough or parish. Adoption of Act, according to 9 & 10 Vict., c. 74.

3. Where the Act is adopted in a borough or in such a parish, the provisions of the Act of the ninth and tenth Victoria, Chapter seventy-four, for the purposes below specified applicable in the like cases where that Act is adopted, shall take effect for the purposes of this Act, viz.: All the provisions concerning As to public baths and washhouses.

- (1) The authority by which and the manner in which the Act is to be carried into execution:
- (2) The mode of providing the expenses of carrying the Act into execution (excluding the provisions for borrowing money for such expenses):
- (3) The appointment (in the case of a parish) of commissioners, the tenure of office and procedure, and the audit of their accounts:
- (4) The powers of the councils and commissioners for the purposes of the Act (except the powers of borrowing money).

4. After the adoption of this Act it shall be lawful for the ratepayers in meeting assembled to rate such parish to a separate rate, Ratepayers, after notice

* This Act may now be adopted in any rural parish by the parish meeting. See Local Government Act, 1894, Section 7.

† The Act referred to is the Baths and Washhouses Act, 1846, printed, *ante*, page 237. In future, however, the question of adopting this Act will be decided by the parish meeting in rural parishes, and the authority for executing the Act when adopted will be the parish council. See Local Government Act, 1894, Section 7 ([1] and [5]—[7], pages 79 and 80).

- Sec. 4. to be called the “ Parish Improvement Rate ;” provided
 given, to rate that such rate be agreed to by a majority of at least two-thirds*
 parishes. . . . of the ratepayers assembled at such meeting.
- Corporate bodies may attend and vote. 5. Corporate bodies shall be allowed to attend meetings to be held as aforesaid and to vote thereat by some person to be deputed by them for that purpose under their corporate seal.
- One half of the estimated cost to be raised by private subscription. 6. Provided always, that previous to any such rate being imposed a sum in amount not less, than at least one-half of the estimated cost of such proposed improvement shall have been raised, given, or collected by private subscription or donation.
- Amount of rate. 7. Such rate shall not exceed sixpence in the pound.

PUBLIC LIBRARIES ACT, 1892.

55 & 56 VICT., C. 53.

An Act to Consolidate and amend the Law relating to Public Libraries.†
 [27th June, 1892.]

BE it enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Extent and application of Act.

Adoption of Act and Constitution of Library Authority.

1. (1) This Act shall extend to every library district for which it is adopted.

(2) For the purposes of this Act and subject to the provisions thereof every urban district and every parish in England and Wales which is not within an urban district shall be a library district.

(3) This Act shall have effect as regards any parish which is partly within and partly without an urban district as if the part which is without the district were a separate parish, and the overseers for the parish shall be deemed for the purposes of this Act to be the overseers for that part.

Limitations on expenditure for purposes of Act.

2. (1) A rate or addition to a rate shall not be levied for the purposes of this Act for any one financial year in any library district to an amount exceeding one penny in the pound.‡

(2) This Act may be adopted for any library district subject to a condition that the maximum rate or addition to a rate to be levied for the purposes of this Act in the district or in any defined

* The words “in value” are repealed by Local Government Act, 1894, Section 89.

† For an historical account of previous Acts relating to Public Libraries see judgment of Stirling J. in *A. G. v. Croydon Corporation* (42 Ch. D. 178). The question which arose in that case cannot now arise, as the decision as to adopting the Act no longer rests with the ratepayers as such.

‡ In calculating the amount which this rate will produce, only the property actually producing and yielding must be taken into account. Compare *ex parte Brown*; *in re Liverpool* (31 L. J. M. C. 108).

portion of the district in any one financial year shall not exceed one halfpenny or shall not exceed three farthings in the pound, but such limitation if fixed at one halfpenny may be subsequently raised to three farthings, or altogether removed, or where it is for the time being fixed at three farthings may be removed.

Sec. 2.

Proceedings
for adoption
of Act.

*3. With respect to—

- (a) the adoption of this Act for any library district;† and
- (b) the fixing, raising, and removing of any limitation on the maximum rate to be levied for the purposes of this Act; and
- (c) the ascertaining of the opinion of the voters with respect to any matter for which their consent is required under this Act;

the following provisions shall have effect; that is to say,

- (1) Any ten or more voters in the library district may address a requisition in writing to the authority hereafter in this section mentioned requiring that authority to ascertain the opinion of the voters in the district with respect to the question or questions stated in the requisition: Provided that where the library district is a municipal borough the requisition may be made by the council of the borough:
- (2) On receipt of the requisition the said authority shall proceed to ascertain by means of voting papers the opinion of the voters with respect to the said question or questions; but the said authority shall not ascertain the opinion of the voters on any question with respect to the limitation of the rate unless required to do so by the requisition, or with respect to any limitation of the rate other than the limitations specified in this Act:
- (3) The procedure for ascertaining the opinion of the voters shall be in accordance with the regulations contained in the First Schedule to this Act; and those regulations shall have effect as if they were enacted in the body of this Act:
- (4) Every question so submitted to the voters shall be decided by the majority of answers to that question recorded on the valid voting papers, and where the majority of those answers are in favour of the adoption of this Act the same shall forthwith, on the result of the poll being made public, be deemed to be adopted:
- (5) Where the opinion of the voters in any library district is ascertained upon the question as to the adoption of this Act, or upon a question as to the limitation of the rate, no further proceeding shall be taken for ascertaining the opinion of the voters until the expiration of one year at least from the day when the opinion of the voters was last ascertained, that is to say, the day on which the voting papers were collected:
- (6) The authority to ascertain the opinion of the voters for the purposes of this section shall be in a municipal borough the mayor, and in any other urban district the chairman of the urban authority, and in a parish the overseers.

* Section 3 is repealed as to urban districts by Section 3 of 56 Vict., c. 11. See *post*, p. 400.

† In rural parishes the authority who may adopt this Act is the parish meeting: Local Government Act, 1894, Section 7.

Act when adopted to be executed by library authority.

4. This Act when adopted for any library district shall be carried into execution, if the library district is an urban district, by the urban authority, and, if it is a parish, by the commissioners appointed under this Act;* and any such authority or commissioners executing this Act are hereinafter referred to as a "library authority."

Constitution of commissioners for executing Act in parish.

5. (1) Where this Act is adopted for any parish* the vestry shall forthwith appoint not less than three nor more than nine voters in the parish to be commissioners for carrying this Act into execution.

(2) The commissioners shall be a body corporate by the name of "The Commissioners for Public Libraries and Museums for the parish of _____, in the county of _____," and shall have perpetual succession and a common seal, with power to acquire and hold lands for the purposes of this Act, without any licence in mortmain.

Rotation of commissioners.

6. (1) The commissioners* shall, as soon as conveniently may be after their appointment, divide themselves by agreement, or in default of agreement by ballot, into three classes, one third or as nearly as may be one third of them being in each class.

(2) The offices of the first class shall be vacated at the expiration of one year, the offices of the second class at the expiration of two years, and the offices of the third class at the expiration of three years from the time of their appointment.

(3) The offices of vacating commissioners shall be filled by an equal number of new commissioners to be appointed by the vestry from among the voters in the parish; and every newly-elected commissioner shall hold his office for the term of three years from the date when the office became vacant, and no longer, unless re-elected; but a person, on ceasing to be a commissioner, shall, unless disqualified, be re-eligible.

(4) Any casual vacancy among the commissioners, whether arising by death, resignation, incapacity, or otherwise, shall as soon as may be after the occurrence thereof be filled up by the vestry; but the term of office of a commissioner appointed to fill up a casual vacancy shall expire at the date at which the term of office of the commissioner in whose place he is appointed would have expired.

Meetings of commissioners.

7. The commissioners* shall meet at least once in every month, and at such other times as they think fit, at some convenient place; and any one commissioner may summon a special meeting by giving three clear days' notice in writing to each commissioner, specifying therein the purpose for which the meeting is called. Business shall not be transacted at any meeting of the commissioners unless at least two of them are present.

Proceedings of commissioners to be recorded.

8. All orders and proceedings of the commissioners* shall be entered in books to be kept for that purpose, and shall be signed by the commissioners or any two of them; and all such orders and proceedings so entered, and purporting to be so signed, shall be deemed to be original orders and proceedings, and such books may be produced and read as evidence of all such orders and proceedings upon any judicial proceeding.

* In future in rural parishes, the parish council, where there is one, will be the library authority. See Local Government Act, 1894, Section 7 (7).

9. (1) Where this Act is adopted for any two or more neighbouring parishes, the vestries of those parishes may by agreement combine for any period in carrying this Act into execution, and the expenses of carrying this Act into execution shall be defrayed by the parishes in such proportions as may be agreed on by the vestries.

Power to vestries of neighbouring parishes to combine.

(2) The vestry of each of the said parishes shall appoint not more than six commissioners in accordance with the provisions of this Act, and the commissioners so appointed for the several parishes shall form one body of commissioners, and shall act accordingly in the execution of this Act.

10. Where the voters in a parish adjoining or near any library district for which either this Act has been adopted, or the adoption thereof is contemplated, consent to such parish being annexed to the said district, such parish, subject to the consent of the library authority of the said district being also given, shall be annexed to and form part of that district for the purposes of this Act; the vestry of such parish shall appoint not more than six commissioners in accordance with the provisions of this Act, and the commissioners so from time to time appointed shall during their respective terms of office be deemed for all the purposes of this Act to be members of the library authority of the said district.

Power to annex parish to adjoining district.

Execution of Act.

11. (1) The library authority * of any library district for which this Act has been adopted may, subject to the provisions of this Act, provide all or any of the following institutions, namely, public libraries, public museums, schools for science, art galleries, and schools for art, and for that purpose may purchase and hire land, and erect, take down, rebuild, alter, repair, and extend buildings, and fit up, furnish, and supply the same with all requisite furniture, fittings, and conveniences.

Provision of libraries, museums, and schools of science and art.

(2) Where any of the institutions mentioned in this section has been established either before or after the passing of this Act by any library authority under this Act or the Acts hereby repealed, that authority may establish in connection therewith any other of the said institutions without further proceedings being taken with respect to the adoption of this Act.

(3) No charge shall be made for admission to a library or museum provided under this Act for any library district, or, in the case of a lending library, for the use thereof by the inhabitants of the district; but the library authority, if they think fit, may grant the use of a lending library to persons not being inhabitants of the district, either gratuitously or for payment.

12. (1) For the purpose of the purchase of land under this Act by a library authority the Lands Clauses Acts, with the exception of the provisions relating to the purchase of land otherwise than by agreement, shall be incorporated with this Act.

Provision as to acquisition and disposal of land.

(2) The library authority of any library district which is an urban district may with the sanction of the Local Government Board appropriate for the purposes of this Act any land which is vested in that authority.

(3) A library authority may with the sanction of the Local

* As to library authority see Section 4.

Sec. 12. Government Board sell any land vested in them for the purposes of this Act, or exchange any such land for other land better adapted for those purposes, and the money arising from the sale or received by way of equality of exchange, shall be applied in or towards the purchase of other land better adapted for the said purposes, or may be applied for any purpose for which capital money may be applied, and which is approved by the Local Government Board.

(4) A library authority may let a house or building, or any part thereof, or any land vested in them for the purposes of the Act, which is not at the time of such letting required for those purposes, and shall apply the rents and profits thereof for the purposes of this Act.

Power to grant charity land for purposes of this Act.

13. (1) Any person holding land for ecclesiastical, parochial, or charitable purposes may, subject as hereinafter provided, grant, or convey, by way of gift, sale, or exchange, for any of the purposes of this Act any quantity of such land, not exceeding in any one case one acre, in any manner vested in such person.

(2) Provided that—

(a) ecclesiastical property shall not be granted or conveyed for those purposes without the consent of the Ecclesiastical Commissioners; and

(b) parochial property shall not be so granted or conveyed save by the board of guardians of the poor law union comprising the parish to which the property belongs, or without the consent of the Local Government Board; and

(c) other charitable property shall not be so granted or conveyed without the consent of the Charity Commissioners; and

(d) the land taken in exchange or the money received for such sale shall be held on the same trusts as the land exchanged or sold; and

(e) land situated in the administrative county of London, or in any urban district containing according to the last published census for the time being over twenty thousand inhabitants, which is held on trusts to be preserved as an open space, or on trusts which prohibit building thereon, shall not be granted or conveyed for the purposes of this Act.

(3) Any land granted or conveyed to any library authority under this section may be held by that authority without any licence in mortmain.

Vesting of property in library authority.

14. All land appropriated, purchased, or rented, and all other real and personal property presented to or purchased or acquired for any library, museum, art gallery, or school under this Act shall be vested in the library authority.

Management of libraries, &c., by library authority or committee.

15. (1) The general management, regulation, and control of every library, museum, art gallery, and school provided under this Act shall be vested in and exercised by the library authority, and that authority may provide therein books, newspapers, maps, and specimens of art and science, and cause the same to be bound and repaired when necessary.

(2) The library authority may also appoint salaried officers and servants, and dismiss them, and make regulations for the safety

* As to library authority see Section 4.

and use of every library, museum, gallery, and school under their control, and for the admission of the public thereto. **Sec. 15.**

(3) Provided that a library authority being an urban authority may if they think fit appoint a committee and delegate to it all or any of their powers and duties under this section, and the said committee shall to the extent of such delegation be deemed to be the library authority.* Persons appointed to be members of the committee need not be members of the urban authority.

16. (1) The commissioners separately appointed for any two or more parishes for which this Act has been adopted may with the consent of the voters in each of those parishes agree to share in such proportions and for such period as may be determined by the agreement the cost of the purchase, erection, repair, and maintenance of any library building situate in one of those parishes, and also the cost of the purchase of books and newspapers for such library, and all other expenses connected with the same. Power to library authorities to make agreements for use of library.

(2) The library authority of any library district may with the consent of the voters in the district and of the county commissioners make the like agreement with the governing body of any library established or maintained out of funds subject to the jurisdiction of the Charity Commissioners, and situate in or near the library district, and, in case of inability, objection, or failure on the part of the governing body to enter into such agreement, the Charity Commissioners may, if they think fit, become party to the agreement on behalf of the governing body.

(3) This section shall apply, with the necessary modifications, to a museum, school for science, art gallery, or school for art in like manner as a library.

17. Where a library authority accepts a grant out of money provided by Parliament from the Department of Science and Art towards the purchase of the site, or the erection, enlargement, or repair of any school for science and art, or school for science, or school for art, or of the residence of a teacher in any such school, or towards the furnishing of any such school, that authority may accept the grant upon the conditions prescribed by the Department of Science and Art, and may execute any instruments required by that Department for carrying into effect those conditions, and upon payment of the grant shall be bound by such conditions and instruments, and have power and be bound to fulfil and observe the same. Power to library authority to accept parliamentary grant.

Financial Provisions.

18. (1) The expenses incurred in a library district in and incidental to the execution of this Act, including all expenses in connection with ascertaining the opinion of the voters in the district, may be defrayed,— Expenses of library authority how defrayed.

- (a) where the library district is a municipal borough, out of the borough fund or borough rate, or a separate rate to be made, assessed, and levied in like manner as the borough rate; and
- (b) where the library district is an urban district other than a borough, out of the rate applicable to the general expenses incurred in the execution of the Public Health Acts, or a separate rate to be made, assessed, and levied in like manner as the rate so applicable; and

* As to library authority *see* Section 4.

- Sec. 18.** (c) where the library district is a parish, out of a rate to be raised with and as part of the poor rate, subject, however, to this qualification, that every person assessed to the poor rate in the said parish in respect of lands used as arable, meadow, or pasture ground only, or as woodlands or market gardens, or nursery grounds, shall be entitled to an allowance of two thirds of the sum assessed upon him in respect of those lands for the purposes of this Act.
- (2) Where the library district is a parish, and is not combined with any other parish for the execution of this Act, then—
- (i) such amount only shall be raised out of a rate for the purposes of this Act as is from time to time sanctioned by the vestry of the parish; and
- (ii) the vestry to be called for the purpose of sanctioning the amount shall be convened in the manner usual in the parish; and
- (iii) the amount for the time being proposed to be raised for the purposes of this Act shall be expressed in the notice convening the vestry, and (if sanctioned) shall be paid according to the order of the vestry to such person as may be appointed by the library authority to receive it; and
- (iv) in the notices requiring the payment of the rate there shall be stated the proportion which the amount to be thereby raised for the purposes of this Act bears to the total amount of the rate.
- (3) Where a parish or a part of a parish is annexed in pursuance of this Act to any library district, so much of the said expenses as is chargeable to such parish or part shall be defrayed in like manner as if such parish or part were a separate library district, but the sanction of the vestry shall not be required for raising the sums from time to time due from the parish for meeting those expenses.

Borrowing
by library
authority.

19. (1) Every library authority,* with the sanction of the Local Government Board, and in the case of a library authority being commissioners appointed for a parish, with the sanction also of the vestry of such parish, may borrow money for the purposes of this Act on the security of any fund or rate applicable for those purposes.

38 & 39 Vict.,
c. 55.

(2) Sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine,† both inclusive, of the Public Health Act, 1875, relating to borrowing by a local authority shall apply, with the necessary modifications, to all money borrowed by any library authority for the purposes of this Act, as if the library authority were an urban authority, and as if references to this Act were substituted in those sections and in the forms therein mentioned for references to the Public Health Act, 1875.

(3) The Public Works Loan Commissioners may in manner provided by the Public Works Loans Act, 1875, lend any money which may be borrowed by a library authority for the purposes of this Act.

Accounts
and audit.

20. (1) Separate accounts shall be kept of the receipts and expenditure under this Act of every library authority and their

* As to library authority *see* Section 4.

† *See* page 375, *ante*.

officers, and those accounts shall be audited in like manner and with the like incidents and consequences, in the case of a library authority being an urban authority, and of their officers, as the accounts of the receipts and expenditure of that authority and their officers under the Public Health Acts.

Sec. 20.

(2) The accounts of the receipts and expenditure of a library authority being commissioners appointed under this Act, and of their officers, shall be audited yearly by a district auditor in like manner and with the like incidents and consequences as in the case of an audit under the Acts relating to the relief of the poor, and those commissioners shall be a local authority within the meaning of the District Auditors Act, 1879.

42 & 43 Vict.,
c. 6.

(3) The accounts of the receipts and expenditure under this Act of any library authority other than the council of a municipal borough shall be open at all reasonable times to the inspection, free of charge, of any ratepayer in the library district, and any such ratepayer may without charge make copies of and extracts from those accounts; and if any library authority or any person being a member thereof or employed by them and having the custody of the accounts fails to allow the accounts to be inspected, or copies or extracts to be made, as required by this section, such authority or person shall for each offence be liable on summary conviction in manner provided by the Summary Jurisdiction Acts to a fine not exceeding five pounds.

Provisions affecting London only.

21. (1) The City of London shall be a library district, and on this Act being adopted for the city, the common council shall be the library authority.

Application
of Act to
city of
London.

(2) The opinion of the voters in the city of London with respect to any question under this Act shall be ascertained by the mayor on the requisition of the common council.

(3) The expenses incurred in the city of London in and incidental to the execution of this Act, including all expenses in connection with ascertaining the opinion of the voters, shall be defrayed out of the consolidated rate levied by the commissioners of sewers, or a separate rate to be made, assessed, and levied by those commissioners in like manner as the consolidated rate.

(4) So much of this Act as limits the rate or addition to a rate to be levied in any library district for any one financial year to one penny in the pound shall not extend to the city of London.

22. Every district mentioned in Schedule B to the Metropolis Management Act, 1855, as amended by any subsequent Acts, shall be a library district, and the provisions of this Act shall apply accordingly with the following modifications:—

Power for
district in
London to
adopt Act.
18 & 19 Vict.,
c. 120.

(1) The opinion of the voters in any such district with respect to any question under this Act shall be ascertained by the district board on the requisition in writing of any ten or more of such voters:

(2) The library authority for such district shall be commissioners appointed by the district board, and the provisions of this Act relating to commissioners appointed for a parish shall apply with the substitution of "district" for "parish" and of "district board" for "vestry":

* As to library authority see Section 4.

Sec. 22.

- (3) The expenses incurred in any such district in and incidental to the execution of this Act, including all expenses in connection with ascertaining the opinion of the voters, shall to such amount as is sanctioned by the district board be defrayed by the board in like manner as if they had been incurred for the general purposes of the Metropolis Management Act, 1855, and the sums from time to time required for defraying those expenses, to the extent so sanctioned, shall be paid by the district board to any person appointed by the commissioners to receive the same; but nothing in this enactment shall enable a district board to levy for the purposes of this Act any greater sum in any financial year than the amount produced by a rate of one penny in the pound, or any less rate specially fixed for the purpose of this Act in the district:
- (4) The enactments authorising two or more neighbouring parishes to combine in carrying this Act into execution shall have effect as if any such district were included in the term "parish" and the district board of such district in the term "vestry":
- (5) Where a parish in any such district has adopted the Acts hereby repealed or any of them, or hereafter adopts this Act, it shall be treated in all respects for the purposes of this Act as if it were outside the district, and, in particular—
- (a) a person shall not, by reason of being a voter in the parish, be accounted for the purposes of this section as a voter in the district; and
 - (b) a representative of the parish on the district board shall not take part in any proceeding of the board under this section; and
 - (c) the parish shall not be called on to contribute to the payment of any expenses incurred in pursuance of this section; and
 - (d) any question of accounts arising between the parish and the other parishes in the district, or between the parish and the district, in consequence of this section, shall be decided finally by the Local Government Board:
- (6) After the adoption of this Act for any such district, proceedings shall not, except with the sanction of the Local Government Board, be taken for the separate adoption thereof for any parish in the district.

Power to vestry or district board in London to appropriate land for library, &c.

23. The vestry or district board constituted under the Metropolis Management Act, 1855, for any parish mentioned in Schedule A or district mentioned in Schedule B to that Act, as amended by any subsequent Acts, may, if this Act is in force in such parish or district, appropriate with the sanction of the Local Government Board for the purposes of this Act any land which is vested in such vestry or board.

Supplemental Provisions.

Adjustment of interests on termination of agreement.

24. Any agreement under this Act between two or more vestries or library authorities, or between a library authority and any other body, may provide that on the termination of the agreement an adjustment shall be made of the interests of the several parties

thereto in any property to the provision of which they have contributed, and as to the mode in which the adjustment shall be arrived at, and in the event of any dispute the adjustment shall on the application of any of the parties be made by an arbitrator appointed by the Local Government Board. **Sec. 24.**

25. Nothing in this Act shall interfere with the operation of the Act of the session of the twenty-eighth and twenty-ninth years of the reign of Her present Majesty, chapter one hundred and eight, so far as it relates to the collection of a rate for a public library in Oxford. **Saving for Oxford.**

26. For the purposes of this Act the vestry of a parish shall be any body of persons acting by virtue of any Act of Parliament as or instead of a vestry, and, where there is no such body, shall be the inhabitants of the parish in vestry assembled, but in the latter case the persons registered as county electors in respect of the occupation of property situate in the parish, and no other persons, shall be members of the vestry. **Constitution and proceedings of vestry for purposes of Act.**

27. In this Act, unless the context otherwise requires,*— **Definitions.**
the expression "urban district" means a municipal borough, Improvement Act district, or local government district; and "urban authority" means, as regards each such district, the council, improvement commissioners, or local board :
the expression "financial year" means the period of twelve months for which the accounts of a library authority are made up :
the expression "voter" means a person who is registered as a county elector or enrolled as a burgess in respect of the occupation of property situate in the district or parish in connection with which the voter is mentioned :
the expression "overseers" includes any persons authorised and required to make and levy poor rates in a parish, and acting instead of overseers :
the expression "common council" means in relation to the city of London the mayor, commonalty, and citizens, acting by the mayor, aldermen, and commons in common council assembled.

28. (1) The Acts mentioned in the second Schedule to this Act shall be repealed as from the commencement of this Act, save so far as any of them extend beyond England and Wales; and where those Acts have been adopted for any library district, that adoption shall be deemed to have been an adoption of this Act, and this Act shall apply accordingly. **Repeal.**

(2) For the purpose of this section the said Acts shall be deemed to have been adopted for any district in which they were in force immediately before the commencement of this Act.

29. Nothing in this Act shall be deemed to limit, or to reduce or alter the limit of any rate which any library authority is authorised to levy under or by virtue of any local Act. **Saving as to local Acts.**

30. This Act shall come into operation on the first day of October next after the passing thereof. **Commencement.**

31. This Act may be cited as the Public Libraries Act, 1892. **Short title.**

* For definition of "library authority" see Sections 4, 15 (3), and 22.

Section 3.

SCHEDULES.

FIRST SCHEDULE.

REGULATIONS FOR ASCERTAINING THE OPINION OF THE VOTERS
IN A LIBRARY DISTRICT.*

In these regulations the expression "presiding officer" means, in relation to any library district, the authority required under this Act to ascertain the opinion of the voters in that district on any question, or a person appointed by that authority, and that authority is referred to in these regulations as the "district authority."

PART I.—PROCEDURE BY VOTING PAPERS.

1. The district authority shall, before the day appointed for the issuing of the voting papers, provide the presiding officer with a copy of the Burgess roll or county register, as the case may be, or of the part or parts thereof containing the names of all the voters in the library district.

2. On the day appointed for issuing the voting papers the presiding officer shall send by post or cause to be delivered to every voter at his address appearing in the roll or register a voting paper in the form contained in Part II of this schedule or to the like effect.

3. Every voting paper shall bear the number of the voter on the roll or register, as the case may be, and shall contain directions to the voter, in accordance with these regulations, as to the day on which and the hours within which the voting paper is to be collected or sent, and as to the place at which, if sent, it will be received.

4. The district authority shall, before the issue of the voting papers, appoint such a number of competent persons as may be necessary to collect and receive the voting papers and to assist in the scrutiny thereof on such terms and for such remuneration as may be reasonable, and shall also appoint a convenient place within the district at which the voting papers are to be received, but the district authority shall not be required to collect any voting papers which have been sent by them to addresses beyond the limits of the district.

5. Voting papers shall be collected between 8 a.m. and 8 p.m. of the third day after that on which they were issued. Such day is hereinafter in these regulations referred to as the polling day, and such last-mentioned hour is hereinafter referred to as the "conclusion of the poll."

6. A voting paper shall not after collection be delivered up to any person except the presiding officer or a person appointed to receive voting papers.

* In rural parishes the parish meeting will be the authority to decide as to the adoption of this Act. If a poll is taken in a rural parish, it will be taken in accordance with Section 48 of the Local Government Act, 1894 (*see* pp. 79 and 151). The above regulations will only apply to library districts constituted before November, 1894. As regards urban districts they are superseded by the Public Libraries Act, 1893 (page 399).

7. The persons appointed to collect the voting papers shall, either before or as soon as may be after the conclusion of the poll, deliver the voting papers collected by them to the presiding officer or to a person appointed to receive the same.

8. A voting paper may be sent by prepaid post or by hand to the presiding officer at the place appointed by the district authority for the receipt thereof, so that it be received by the presiding officer at such appointed place before the conclusion of the poll. Voting papers, except those collected by persons appointed by the district authority, shall not be received at the appointed place after the conclusion of the poll.

9. Every person appointed to collect voting papers shall be appointed in writing by the district authority, and shall carry such writing with him while employed in the collection, and shall show it to any voter who may require him to do so. If any person so appointed fails to comply with this regulation, or if any unauthorised person fraudulently receives or induces any voter to part with a voting paper, such person shall be guilty of a misdemeanor, and liable, on conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding twenty pounds, or to both imprisonment and fine.

10. A voting paper which contains the answer "yes" or "no" to any question put to the voters and is duly signed shall be deemed to be a valid voting paper with respect to that question.

A voting paper shall be deemed to be duly signed if signed by the voter with his full name or ordinary signature.

11. Where any voter is unable to write he may cause his voting paper to be filled up by another person. In such case he shall attach his mark to the voting paper, and such mark shall be attested by such other person, who shall sign his name and append his address thereto. A voting paper to which such mark is attached, and which is duly attested, shall be deemed to be duly signed.

12. Any person fabricating a voting paper, or presenting or returning a fabricated voting paper, knowing that the same does not bear the true answer or signature of the voter to whom it was sent or intended to be sent, shall be guilty of personation, and liable to the penalties of that offence, as provided by the Ballot Act, 1872.

35 & 36 Vict.,
c. 33.

13. The presiding officer shall, as soon as may be after the conclusion of the poll, proceed to a scrutiny of the voting papers, and shall compare the same with his copy of the roll or register, and ascertain how far the voting papers have been duly signed by the voters.

14. A question put to the voters shall be deemed to be answered and determined in the affirmative or negative, according as the majority of valid voting papers returned contain the answer "yes" or "no" to that question.

15. Immediately on the conclusion of the scrutiny the presiding officer shall report to the district authority the number of voters who have voted "yes" and "no" respectively to each question put to them, and the number of voting papers which are invalid.

16. The presiding officer shall seal up in separate packets the

valid and the invalid voting papers respectively, and shall transmit them, together with his report, to the district authority.

17. Upon receiving the report of the presiding officer the district authority shall cause the result of the poll to be made public in such manner as they think fit.

PART II.—FORM OF VOTING PAPER.

Public Libraries Act, 1892.

BOROUGH (Parish or other Library District) of
No. (Here insert number of voter in burgess roll
or county register, as the case may be.)

[To be omitted if Libraries Act already adopted.]	Question 1	Are you in favour of the adoption of the Public Libraries Act, 1892, for the borough (or parish, &c.) of	Answer 1. (To be filled in "Yes" or "No.")
[To be omitted if no question stated in the requisition as to limitation of rate.]	Question 2	Are you in favour of the rate being limited to one halfpenny in the pound? (Or to three farthings, or of the existing limitation of the rate under the Public Libraries Act, 1892, being removed, or of the existing limitation to one halfpenny being raised to three farthings, as the case may require)	Answer 2. (To be filled in "Yes" or "No.")
[To be omitted if no such question raised.]	Question 3	Are you in favour of an agreement being made with (here designate the body or bodies, according to section ten or section sixteen of this Act) for the purpose of (briefly state objects of proposed agreement)	Answer 3. (To be filled in "Yes" or "No.")

Signature of Voter.

Note.

1. This voting paper will be collected by an authorised collector between the hours of 8 a.m. and 8 p.m. on _____ day, the _____ 18 (insert polling day), or may be sent by prepaid post or by hand, addressed to (state name or designation of presiding officer, and place appointed by the district authority). If it is sent it must be received at that address before 8 p.m. on the above-mentioned day.

2. You may require the collector to show his authority in writing. No authority is valid unless it is (signed by A.B., or sealed, or as the district authority may direct).

SECOND SCHEDULE.

Section 28.

ACTS REPEALED.

Session and Chapter.	Short Title.
18 & 19 Vict., c. 70	The Public Libraries Act, 1855.
29 & 30 Vict., c. 114	The Public Libraries Amendment Act (England and Scotland), 1866.
34 & 35 Vict., c. 71	The Public Libraries Act, 1855, Amendment Act, 1871.
47 & 48 Vict., c. 37	The Public Libraries Act, 1884.
50 & 51 Vict., c. 22	The Public Libraries Acts Amendment Act, 1887.
52 & 53 Vict., c. 9	The Public Libraries Acts Amendment Act, 1889.
53 & 54 Vict., c. 68	The Public Libraries Acts Amendment Act, 1890.

PUBLIC LIBRARIES (AMENDMENT)
ACT, 1893.

A.D. 1893.

56 VICT., C. 11.

An Act to amend the Public Libraries Act, 1892.

[9th June, 1893.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Public Libraries (Amendment) Act, 1893, and shall be construed as one with the Public Libraries Act, 1892 (in this Act referred to as the principal Act), and these two Acts may be together cited as the Public Libraries Acts, 1892 and 1893.

Short title,
55 & 56 Vict.,
c. 53.

2. (1) Where a library district is an urban district—

(i) The principal Act may, subject to the conditions contained in the second section of that Act, be adopted, and the limitation of the maximum rate to be levied for the purposes of that Act may within the limits fixed by that Act be fixed, raised, or removed, by a resolution of the urban authority under this Act :

Modification
as to adop-
tion, &c.,
in urban
districts.

(ii) The consent of the urban authority given by a resolution of that authority under this Act shall be substituted in an urban district for the consent of the voters in any case when the consent of the voters is required under the principal Act.

Sec. 2. (2) Section three of the principal Act is hereby repealed, so far as it relates to an urban district.

Provision as to a resolution of an urban authority for the adoption, &c., of the principal Act.

3. (1) A resolution under this Act shall be passed at a meeting of the urban authority and one month at least before the meeting special notice of the meeting and of the intention to propose the resolution shall be given to every member of the authority, and the notice shall be deemed to have been duly given to a member of it, if it is either—

- (a) given in the mode in which notices to attend meetings of the authority are usually given; or
- (b) where there is no such mode, then signed by the clerk of the authority, and delivered to the member or left at his usual or last known place of abode in England, or forwarded by post in a prepaid letter, addressed to the member at his usual or last known place of abode in England.

(2) The resolution shall be published by advertisement in some one or more newspapers circulating within the district of the authority, and by causing notice thereof to be affixed to the principal doors of every church and chapel in the place to which notices are usually fixed, and otherwise in such manner as the authority think sufficient for giving notice thereof to all persons interested, and shall come into operation at a time not less than one month after the first publication of the advertisement of the resolution as the authority may by the resolution fix.

(3) A copy of the resolution shall be sent to the Local Government Board.

(4) A copy of the advertisement shall be conclusive evidence of the resolution having been passed, unless the contrary be shown; and no objection to the effect of the resolution, on the ground that notice of the intention to propose the same was not duly given, or on the ground that the resolution was not sufficiently published, shall be made after three months from the date of the first advertisement.

Power to two or more library authorities to combine.

4. (1) Where the principal Act is adopted for two or more neighbouring urban districts, the library authorities of those districts may by agreement combine for any period for carrying the Act into execution; and the expenses of carrying the Act into execution shall be defrayed by such authorities in such proportions as may be agreed on by them.

(2) For the purposes of the Act a joint committee may be formed, the members whereof shall be appointed by the several combining authorities in such proportions as may be agreed on, but need not be members of any of the combining authorities. Any such committee shall have such of the powers of a library authority under the principal Act, except the power of borrowing money, as the combining authorities may agree to confer upon them.

(3) Where any of the combining authorities are improvement commissioners or a local board the provisions of the principal Act with respect to accounts and audit shall apply to such committee as if they were a local board who were a library authority under the Act.

REGULATIONS AND CIRCULARS OF THE LOCAL GOVERNMENT BOARD SO FAR AS ISSUED UP TO 20TH MAY, 1894.

LOCAL GOVERNMENT ACT, 1888.

[THIS order is in abeyance until 1st January, 1895. See note in front of the order of 22nd March, 1894, *post*, page 403].

REGULATIONS AS TO INQUIRIES AND NOTICES UNDER SECTION 57.

To the county councils for the several administrative counties in England and Wales; and to all others whom it may concern.

After reciting Section 57 (1) (2) (3) and Section 87 (4) of the Local Government Act, 1888, the order proceeds as follows:

And whereas in regard to the matters required by the said Section 57 to be prescribed no provision other than that contained in the said Section 87 is made, declaring how such matters are to be prescribed:

Now therefore, we, the Local Government Board, in pursuance of the powers given to us in that behalf, do, by this our order, and until we shall otherwise direct, prescribe and determine as follows, with respect to the inquiries to be made and the notices to be given for the purposes of the said Section 57 of the Local Government Act, 1888, the manner of giving such notices, and the several other matters to be prescribed and determined for the purposes of the said section; that is to say—

ARTICLE I. (1) Prior to any order being made by a county council in regard to a proposal for all or any of the things specified in sub-section (1) of Section 57 of the Local Government Act, 1888, a local inquiry, at which all persons interested may attend and be heard, shall be held in regard to the proposal as the council may direct, either by a committee of the county council, or by some person appointed by the county council to hold such inquiry.

(2) If the proposal relate to one or more county districts, the said inquiry shall be held at some convenient place in such district or in one of such districts; and if the proposal relate to a parish or parishes, the said inquiry shall be held either in such parish or in one of such parishes, or at such place in the neighbourhood as may, in the opinion of the committee or person by whom the inquiry is to be held, be most convenient for the purpose.

(3) Before the day when the inquiry is to be held, public notice of the purport of the proposal, and of the day, time, and place fixed for the inquiry in regard to it, shall be given by the county council by advertisement in two successive weeks in some local newspaper circulating in the locality to which the proposal relates.

ARTICLE II. At least fourteen days before the day when the inquiry is to be held, a printed notice of the purport of the proposal, and of the day, time, and place for the inquiry shall also

be published in the manner hereinafter described, and shall be sent to the several government departments and local or other authorities hereinafter specified; that is to say—

- (1) A copy of the said notice shall be posted as a bill or placard in such places in the county district or districts or parish or parishes interested in the proposal as are ordinarily made use of for posting public or parochial notices.
- (2) In any case where the proposal relates to the alteration of or other dealing with any sanitary district, a copy of the notice shall be sent by the county council to the sanitary authority of such district.
- (3) In any case where the proposal relates to the alteration of or other dealing with any parish a copy of the notice shall be sent by the county council to the overseers of the poor of such parish; to the guardians of the poor of the union in which such parish is comprised; to the school board (if any) for such parish or for any part thereof; to the highway authority or authorities of the parish; to the burial board (if any) for such parish or for any part thereof; and to the urban sanitary authority (if any) in whose district such parish or any part thereof is comprised.
- (4) A copy of the notice shall be sent by the county council to any local authority which, in the opinion of the county council, is specially interested in the proposal.
- (5) A copy of every such notice shall be sent by the county council to the Local Government Board; and in any case where the proposal relates to all or any of the things mentioned in paragraphs (a), (b), and (c) of sub-section (1) of Section 57 of the said Act, a copy of the notice shall be sent by the county council to the Public Works Loan Commissioners, the Director General of the Ordnance Survey at Southampton, and to the Registrar-General; and in any case where the proposal relates to the alteration or definition of the boundary of any parish a copy of the notice shall be sent to the Education Department.

ARTICLE III. Public notice of the provisions of any order made by a county council under sub-section (1) of Section 57 of the said Act shall be given by the county council by advertisement in two successive weeks in some local newspaper circulating in each district or parish affected by the order; and the first of such advertisements shall be published within fourteen days after the making of the order.

The said advertisement shall contain either a copy of the order or a statement of the effect of the order, and shall also contain a statement of the time and place or places during and at which copies of the order may be inspected by any owner or ratepayer in any area affected by the order during a period of one month from the date of the first publication of such advertisement, and the order shall be open for such inspection during such period.

ARTICLE IV. A copy of any order made as aforesaid by a county council shall, at any time while copies of the order are open to inspection as aforesaid, and, in the case of an order which requires to be confirmed by the Local Government Board, at any time before the confirmation of the order by the Local Government Board, be supplied by the clerk to the council to any owner or

ratepayer in any area affected by the order, upon payment by such owner or ratepayer of a sum not exceeding threepence for each hundred words of manuscript if the copy of the order be in writing, or upon payment of a sum not exceeding threepence for a printed copy of the order.

ARTICLE V. On or before the date of the first publication of the advertisement in pursuance of Article III hereof of the provisions of any order made as aforesaid, and, in the case of any such order which does not require to be confirmed by the Local Government Board, one month at least before the order is finally approved by the county council under the said sub-section (2) of Section 57 of the said Act, three copies of the order shall be forwarded to the Local Government Board and to each of the other government departments to whom a copy of the notice of the inquiry relative to the proposed order was, by Article II of this order, required to be sent; a copy of the order shall also be sent to each of the local or other authorities to whom a copy of such notice was so required to be sent, and a copy shall also be posted in like manner as the notice of the inquiry was, in pursuance of the same Article, required to be posted.

ARTICLE VI. The first advertisement in pursuance of Article III hereof of the provisions of any order made by a county council under the said sub-section (1) of Section 57 of the said Act shall be deemed to be the "first notice" for the purposes of sub-section (3) of that section.

ARTICLE VII. The expression "county council" in this order shall include a joint committee appointed under Section 81 of the said Act by any county councils of administrative counties for the purpose of dealing under Section 57 of the said Act with a matter in which such councils are jointly interested.

Given under the seal of office of the Local Government Board, this fourteenth day of September, in the year one thousand eight hundred and eighty-nine.

CHAS. T. RITCHIE, *President*.

HUGH OWEN, *Secretary*.

LOCAL GOVERNMENT ACT, 1888, AND LOCAL GOVERNMENT ACT, 1894.

[This is a temporary order. It will operate only during 1894. As to this *see* Section 80 (2) Local Government Act, 1894 (*ante*, p. 185).]

Unless other regulations are in the meanwhile made by the Local Government Board, their Order of 14th September, 1889, will revive on 1st January, 1895 (*see ante*, p. 401).

REGULATIONS AS TO INQUIRIES AND NOTICES DURING 1894.

To the county councils for the several administrative counties in England and Wales, and to all others whom it may concern.

WHEREAS by sub-sections (1), (2), and (3) of Section 57 of the Local Government Act, 1888, it is enacted as follows:

“(1) Whenever a county council is satisfied that a *prima facie* case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things (that is to say);—

“(a) the alteration or definition of the boundary thereof;

“(b) the division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish;

“(c) the conversion of any such district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts;

“(d) the division of an urban district into wards; and

“(e) the alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards,

the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, Education Department, or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.

“(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards, shall come into operation upon being finally approved by the county council.

“(3) In any other case the order shall be submitted to the Local Government Board; and if within three months after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one-sixth of the total number of electors in that parish, petition the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not.”

And whereas by sub-section (4) of Section 87 of the said Act it is enacted that—

“Where any matter is authorised or required by this Act to be prescribed, and no other provision is made, declaring how the same is to be prescribed, the same shall be prescribed from time to time by the Local Government Board.”

And whereas we, the Local Government Board, by an order dated the 14th day of September, 1889, prescribed certain regulations with respect to the inquiries to be made and the notices to be

given for the purposes of the said Section 57 of the Local Government Act, 1888, the manner of giving such notices, and the several other matters to be prescribed and determined for the purposes of the said section ;

And whereas by Part III of the Local Government Act, 1894, power is given to county councils to make various orders in relation to areas and boundaries and other matters as therein mentioned ;

And whereas by sub-sections (10) and (11) of Section 36 of the said Act, which is included in Part III thereof, it is enacted that—

“(10) Subject to the provisions of this Act, any order made by a county council in pursuance of this part of this Act shall be deemed to be an order under Section fifty-seven of the Local Government Act, 1888, and any board of guardians affected by an order shall have the same right of petitioning against that order as is given by that section to any other authority.

“(11) Where any of the areas referred to in Section fifty-seven of the Local Government Act, 1888, is situate in two or more counties, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee appointed by the councils of those counties shall, subject to the terms of delegation, be deemed to have and to have always had power to make orders under that section with respect to that area ; and where at the passing of this Act a rural sanitary district or parish is situate in more than one county, a joint committee of the councils of those counties shall act under this section.”

And whereas by Section 41 of the said Act it is enacted that—

“The time for petitioning against an order under Section fifty-seven of the Local Government Act, 1888, shall be six weeks instead of three months after the notice referred to in sub-section three of that Section.”

And whereas by sub-section (2) of Section 80 of the said Act it is enacted that—

“The Local Government Board shall make regulations for expediting and simplifying the procedure under Section fifty-seven of the Local Government Act, 1888, in all cases in the year One thousand eight hundred and ninety-four, for the purpose of bringing this Act into immediate operation, and such regulations may dispense with the final approval of an order by the county council in cases where the prescribed notice of the proposed order has been given before it is made by the county council.”

And whereas by Section 75 of the said Act it is enacted that, in that Act, unless the context otherwise requires, the expression “prescribed” means prescribed by order of the Local Government Board ;

And whereas by Section 83 of the said Act it is enacted that a county council may delegate their powers under the Act to a committee ;

Now therefore we, the Local Government Board, in pursuance of the powers given to us in that behalf, by this our order make the regulations following for expediting and simplifying the procedure under Section 57 of the Local Government Act, 1888, in

all cases in the year One thousand eight hundred and ninety-four, for the purpose of bringing the said Local Government Act, 1894, into immediate operation, and do prescribe and determine as follows; that is to say—

ARTICLE I. This order shall, unless we shall otherwise direct, regulate the procedure under Section 57 of the Local Government Act, 1888, in all cases in the year One thousand eight hundred and ninety-four, for the purpose of bringing the Local Government Act, 1894, into immediate operation, except cases in which notice of a local inquiry has been given before the date of this order; and the said order dated the fourteenth day of September, One thousand eight hundred and eighty-nine, shall not apply in any case to which this order applies.

ARTICLE II. (1) A local inquiry, at which all persons interested may attend and be heard, shall, prior to any order being made by a county council under Section 57 of the Local Government Act, 1888, be held in regard to the proposal, either by a committee of the county council, or by some person appointed by the county council to hold such inquiry as the council may direct.

(2) The said inquiry shall, unless the county council otherwise determine, be held at some convenient place in the county district, or in one of the county districts, proposed to be dealt with, or in the county district within which is situate the parish, or one of the parishes, proposed to be dealt with, or at such place in the neighbourhood as may, in the opinion of the committee or person by whom the inquiry is to be held, be most convenient for the purpose.

(3) At least ten days before the day when the inquiry is to be held, public notice of the purport of the proposal, and of the day, time, and place fixed for the inquiry in regard to it, shall be given by the county council by advertisement in some local newspaper circulating in the locality to which the proposal relates.

ARTICLE III. At least ten days before the day when any such local inquiry is to be held, a printed notice of the purport of the proposal, and of the day, time, and place for the inquiry shall also be published in the manner hereinafter prescribed, and shall be sent to the several Government departments and local or other authorities hereinafter specified; that is to say—

- (1) A copy of the said notice shall be posted as a bill or placard in such places in the county district or districts or parish or parishes interested in the proposal as are ordinarily made use of for posting public or parochial notices.
- (2) In any case where the proposal relates to the alteration of or other dealing with any sanitary district, a copy of the notice shall be sent by the county council to the sanitary authority of such district.
- (3) In any case where the proposal relates to the alteration of or other dealing with any parish a copy of the notice shall be sent by the county council to the overseers of the poor of such parish; to the guardians of the poor of the union in which such parish is comprised; to the school board (if any) for such parish or for any part thereof; to the highway authority or authorities of the parish; to the burial board (if any) for such parish or for any part thereof; and to the

urban sanitary authority (if any) in whose district such parish or any part thereof is comprised.

- (4) A copy of the notice shall be sent by the county council to any local authority which, in the opinion of the county council, is specially interested in the proposal.
- (5) A copy of every such notice shall be sent by the county council to the Local Government Board; and in any case where the proposal relates to the alteration of any area of local government a copy of the notice shall be sent by the county council to the Board of Agriculture, the Public Works Loan Commissioners, the Director General of the Ordnance Survey at Southampton, and to the Registrar General; and in any case where the proposal relates to the alteration or definition of the boundary of any parish a copy of the notice shall be sent to the Education Department.

ARTICLE IV. (1) If the case is one in which any order made by a county council under Section 57 of the Local Government Act, 1888, requires confirmation by the Local Government Board, public notice of the provisions of any such order made by a county council shall be given by the county council by advertisement in some local newspaper circulating in each district or parish affected by the order; and such advertisement shall be published within ten days after the making of the order.

(2) If the case is one in which any order made by a county council under Section 57 of the Local Government Act, 1888, does not require confirmation by the Local Government Board, public notice of the proposed order shall, after the inquiry required by Article II hereof has been held, and not less than twenty-one days before the meeting of the county council at which the order is proposed to be made, be given by the clerk to the county council by advertisement in some local newspaper circulating in each district affected by the order.

(3) Any advertisement issued in pursuance of this article shall contain either a copy of the order, or proposed order, as the case may be, or a statement of the effect of the order, or proposed order, and shall also contain a statement of the time and place or places during and at which copies of the order, or proposed order, may be inspected by any owner or ratepayer in any area affected by the order, or proposed order, during a period of fourteen days from the date of the publication of such advertisement, and the order, or proposed order, shall be open for such inspection during such period.

(4) There shall be appended to any proposed order or statement of a proposed order advertised or deposited for inspection in pursuance of this article, a notice to the effect that any person interested in the proposed order who objects thereto may attend and be heard at a meeting of the county council to be held on a day and at a time which shall be mentioned in the notice if, not less than three days before the date of the meeting, he sends to the clerk of the council a statement in writing of the nature of his objection.

ARTICLE V. (1) A copy of any order made, or proposed to be made by a county council as aforesaid shall, at any time while copies of the order, or proposed order, are open to inspection as aforesaid, and in the case of an order which requires to be confirmed by the Local Government Board, at any time before the

expiration of six weeks from the publication of the advertisement in pursuance of Article IV (1) hereof, be supplied by the clerk to the county council to any owner or ratepayer in any area affected by the order, or proposed order, upon payment by such owner or ratepayer of a sum not exceeding threepence for each hundred words of manuscript if the copy of the order, or proposed order, be in writing, or upon payment of a sum not exceeding threepence for a printed copy of the order, or proposed order.

(2) A copy of a proposed order supplied in pursuance of this article shall contain a notice to the effect specified in Article IV (4) hereof.

ARTICLE VI. On or before the date of the publication in pursuance of Article IV (1) hereof of the advertisement of the provisions of any order made as aforesaid and requiring confirmation by the Local Government Board, three copies of the order shall be forwarded to the Local Government Board and to each of the other Government departments to whom a copy of the notice of the inquiry relative to the proposed order was, by Article III hereof, required to be sent; a copy of the order shall also be sent to each of the local or other authorities to whom a copy of such notice was so required to be sent, and a copy shall also be posted in like manner as the notice of the inquiry was, in pursuance of the same article, required to be posted.

ARTICLE VII. The advertisement in pursuance of Article IV (1) hereof of the provisions of any order made by a county council under Section 57 of the Local Government Act, 1888, and requiring confirmation by the Local Government Board, shall be deemed to be the "first notice" for the purposes of sub-section (3) of that section as amended by Section 40 of the Local Government Act, 1894.

ARTICLE VIII. (1) If the case is one in which any order made under Section 57 of the Local Government Act, 1888, does not require confirmation by the Local Government Board, a copy of the proposed order shall, on or before the date of the publication in pursuance of Article IV (2) hereof of the advertisement of the provisions of the proposed order, be sent to each of the local or other authorities to whom a copy of the notice of the inquiry relative to the proposed order was, by Article III hereof, required to be sent, and a copy shall also be posted in like manner as the notice of the inquiry was, in pursuance of the same Article, required to be posted.

(2) Any such copy shall contain a notice to the effect specified in Article IV (4) hereof.

(3) The final approval of the county council of any such order may be dispensed with, if the requirements of Article IV hereof and of this Article have been complied with.

(4) When any such order has been made by a county council three copies thereof shall forthwith be forwarded to the Local Government Board and to each of the other Government departments to whom a copy of the notice of the inquiry was required by Article III hereof to be sent, and a copy of the order shall also be at the same time sent to each of the local or other authorities to whom a copy of such notice was so required to be sent.

ARTICLE IX. The expression "county council" in this order shall include a committee to whom the county council have delegated

their powers under the Local Government Act, 1894, and also a joint committee appointed by any county councils of administrative counties for the purpose of dealing with any case or cases in which such councils are jointly interested, and, in any such last-mentioned case, references in this order to the county shall be deemed to refer to either of the counties interested, and references to the clerk to the county council to any person acting as clerk to the joint committee or appointed by such committee to discharge the duties of the clerk to a county council under this order.

Given under the Seal of Office of the Local Government Board, this Twenty-second day of March, in the year One thousand eight hundred and ninety-four.

[L. S.]

G. SHAW LEFEVRE, *President*.

HUGH OWEN, *Secretary*.

COUNTY BOROUGHES.

LOCAL GOVERNMENT ACT, 1888, AND LOCAL GOVERNMENT ACT, 1894.

REGULATIONS AS TO INQUIRIES AND NOTICES DURING 1894.

[This is a temporary order ; it will operate only during 1894. See Section 80 (2), Local Government Act, 1894 (*ante*, p. 185).]

To the town councils of the several county boroughs in England and Wales ; to the county councils for the several administrative counties in England and Wales ; and to all others whom it may concern.

After reciting Sections 57 (1), (2) and (3), 34 and 87 (4) of the Local Government Act, 1888, and Sections 36 (10) and (11), 41, 80 (2), 75, and 83 of the Local Government Act, 1894, the order proceeds as follows :

Now, therefore, we, the Local Government Board, in pursuance of the powers given to us in that behalf, by this our order make the regulations following as regards any county borough and the council of any county borough, for expediting and simplifying the procedure under Section 57 of the Local Government Act, 1888, in all cases in the year One thousand eight hundred and ninety-four, for the purpose of bringing the said Local Government Act, 1894, into immediate operation, and do prescribe and determine as follows as regards any county borough and the council of any county borough ; that is to say—

ARTICLE I. This order shall, unless we shall otherwise direct, regulate the procedure of the council of every county borough under Section 57 of the Local Government Act, 1888, in all cases in the year One thousand eight hundred and ninety-four, for the purpose of bringing the Local Government Act, 1894, into immediate operation, except cases in which notice of a local inquiry has been given before the date of this order ; and any order previously issued by us regulating the procedure under the said section, and in force in any county borough, shall not apply in any case to which this order applies.

ARTICLE II. (1) A local inquiry, at which all persons interested may attend and be heard, shall, prior to any order being made by the council of a county borough under Section 57 of the Local Government Act, 1888, be held in regard to the proposal, either by a committee of the council, or by some person appointed by the council to hold such inquiry, as the council may direct.

(2) The said inquiry shall, unless the council otherwise determine, be held at some convenient place in the parish, or in one of the parishes proposed to be dealt with, or at such other place in the borough or neighbourhood as may, in the opinion of the committee or person by whom the inquiry is to be held, be most convenient for the purpose.

(3) At least ten days before the day when the inquiry is to be held, public notice of the purport of the proposal, and of the day, time, and place fixed for the inquiry in regard to it, shall be given by the council by advertisement in some local newspaper circulating in the locality to which the proposal relates.

ARTICLE III. At least ten days before the day when any such local inquiry is to be held, a printed notice of the purport of the proposal, and of the day, time, and place for the inquiry, shall also be published in the manner hereinafter prescribed, and shall be sent to the several Government departments and local or other authorities hereinafter specified; that is to say,—

- (1) A copy of the said notice shall be posted as a bill or placard in such places in the parish or parishes interested in the proposal as are ordinarily made use of for posting public or parochial notices.
- (2) A copy of the notice shall be sent by the council to the overseers of the poor of such parish; to the guardians of the poor of the union in which such parish is comprised; to the school board (if any) in whose district such parish or any part thereof is comprised; to the highway authority for any part of the parish, if any person or body of persons other than the council are such highway authority; to any burial board, other than the council, for such parish or for any part thereof; and to any urban sanitary authority, other than the council, in whose district any part of such parish is comprised.
- (3) A copy of the notice shall be sent by the council to any local authority which, in the opinion of the council, is specially interested in the proposal.
- (4) A copy of every such notice shall be sent by the council to the Local Government Board, the Board of Agriculture, the Public Works Loan Commissioners, the Director-General of the Ordnance Survey at Southampton, the Registrar-General, and the Education Department.

ARTICLE IV. (1) Public notice of the provisions of any order made by a council under Section 57 of the Local Government Act, 1888, shall be given by the council by advertisement in some local newspaper circulating in each parish affected by the order; and such advertisement shall be published within ten days after the making of the order.

(2) The said advertisement shall contain either a copy of the order, or a statement of the effect of the order, and shall also contain a statement of the time and place or places during and at which copies of the order may be inspected by any owner or ratepayer in any area affected by the order during a period of fourteen days

from the date of the publication of such advertisement, and the order shall be open for such inspection during such period.

ARTICLE V. A copy of any order made by a council as aforesaid shall, at any time before the expiration of six weeks from the publication of the advertisement in pursuance of Article IV (1) hereof, be supplied by the clerk of the council to any owner or ratepayer in any area affected by the order upon payment by such owner or ratepayer of a sum not exceeding threepence for each hundred words of manuscript if the copy of the order be in writing, or upon payment of a sum not exceeding threepence for a printed copy of the order.

ARTICLE VI. On or before the date of the publication in pursuance of Article IV (1) hereof of the advertisement of the provisions of any order made as aforesaid three copies of the order shall be forwarded to the Local Government Board and to each of the other Government Departments to whom a copy of the notice of the inquiry relative to the proposed order was, by Article III (4) hereof, required to be sent; a copy of the order shall also be sent to each of the local or other authorities to whom a copy of such notice was so required to be sent, and a copy shall also be posted in like manner as the notice of the inquiry was, in pursuance of the same Article, required to be posted.

ARTICLE VII. The advertisement in pursuance of Article IV (1) hereof of the provisions of any order made by a council under Section 57 of the Local Government Act, 1888, shall be deemed to be the "first notice" for the purposes of sub-section (3) of that section as amended by Section 40 of the Local Government Act, 1894.

ARTICLE VIII. The expression "council" in this order shall mean the town council of any county borough, and shall include a committee to whom the council have delegated their powers under the Local Government Act, 1894, and also a joint committee appointed by any such councils, or by any such council or councils, and the county council or councils of any administrative county or counties, for the purpose of dealing with any case or cases in which such councils are jointly interested; and, where any such joint committee is appointed, references in this order to the county borough shall be deemed to refer to each of the county boroughs or counties interested, and references to the clerk of the council to any person acting as clerk to the joint committee, or appointed by such committee to discharge the duties of the clerk of a council under this order.

Given under the Seal of Office of the Local Government Board this Twenty-seventh day of April, in the year One thousand eight hundred and ninety-four.

[L. S.]

G. SHAW LEFEVRE, *President.*

HUGH OWEN, *Secretary.*

HIGHWAY BOARDS IN ENGLAND AND NORTH WALES.

THE LOCAL GOVERNMENT ACT.

(56 & 57 VICT., c. 73.)

Local Government Board,
Whitehall, S.W. ;
9th March, 1894.

SIR,

I am directed by the Local Government Board to draw the attention of the Highway Board to certain provisions of the Local Government Act, 1894.

District councils will under the Act be elected for rural districts, and will take the place of the present rural sanitary authorities.

Section 25 of the Act provides that there shall be transferred to the district council of every rural district all the powers, duties, and liabilities of any highway authority in the district, that highway boards shall cease to exist, and that rural district councils shall be the successors of the highway authority. It is, however, enacted that the council of any county may by order postpone within their county, or any part thereof, the operation of this section, so far as it relates to highways, for a term not exceeding three years, or such further period as may, on the application of the county council, be allowed by the Board. The effect of this provision will be that the highway board will cease to exist on the day on which the first rural district councillors come into office, and the rural district council will thereupon become the highway authority, unless the county council postpone the operation of the section within their county or the part thereof comprising the district of the highway board.

Section 84 provides that the first elections of district councillors under the Act shall be held on the 8th November next, or on such later date or dates in the present year as the Board may fix, and that the persons elected shall come into office on the second Thursday after their election, or such other day not more than seven days earlier or later, as may be fixed by or in pursuance of the rules made by the Board under the Act in relation to the election of those councillors.

By Section 79, persons who, at the passing of the Act, are members of highway boards are continued in office until the day on which the first rural district councillors elected under the Act come into office, as if the term of office for which they were elected expired on that day, and consequently the usual annual election of waywardens* will not take place in the present year.

* A similar circular was sent on 12th March, 1894, to highway boards in South Wales, but in the latter circular the section [] was omitted; "guardians" was substituted for waywardens; and it was pointed out that the effect of Section 79 of the new Act will be to continue in office the existing members of highway boards in South Wales until the 8th November, 1894.

[An order under Section 25 is, by Section 84, to make such provision as may be necessary for holding elections of highway boards in the interval during which the operation of Section 25 is postponed. This provision will enable the county council to give directions in their order for the election of waywardens in place of those who will cease to hold office as mentioned above, when the rural district councillors come into office, and also to order for what period such waywardens shall be elected, having regard to the period of postponement.]

As regards the position of the officers of highway boards that will cease to exist under the Act, the Board direct me to state that Section 81 provides that where the powers and duties of any authority other than justices are transferred by the Act to any district council, the officers of that authority shall become the officers of that council, and that every such officer shall hold his office by the same tenure, and upon the same terms and conditions as heretofore, and while performing the same duties shall receive not less salary or remuneration than heretofore. The section also provides that Section 120 of the Local Government Act, 1888, which relates to compensation to existing officers, shall apply in the case of existing officers affected by the new Act, as if references in the section to the county council were references to the authority whose officer the person affected is when the claim for compensation arises.

At the same time, the Board may draw the attention of the highway board to sub-section (2) of Section 86 of the Act, under which it will be the duty of every authority whose powers, duties, and liabilities are transferred by the Act to liquidate so far as practicable before the day on which the transfer takes effect, all current debts and liabilities incurred by the authority; and to sub-section (2) of Section 85, under which the accounts of the highway board before that day will be audited in the same manner as if the Act had not passed, and for the purpose of the audit the highway board and their accounting officers will, until the audit is completed, be deemed to continue in office and be bound to perform the same duties and render the same accounts, and be subject to the same liabilities as before the transfer.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

To the Clerk of the Highway Board.

LOCAL GOVERNMENT ACT, 1894.

(56 & 57 VICT., c. 73.)

Local Government Board,
Whitehall, S.W.;
19th March, 1894.

SIR,

I am directed by the Local Government Board to draw attention to certain provisions of the Local Government Act, 1894, affecting the vestries and district boards elected under the Metropolis Management Acts, and the local board of Woolwich.

Section 31 directs that the provisions of the Act with respect to the qualification of the electors of urban district councillors, and of the persons to be elected, and with respect to the mode of conducting the election, shall apply as if members of the local board of Woolwich, and the vestries elected under the Metropolis Management Acts, 1855 to 1890, or any Act amending those Acts, and the auditors for parishes elected under those Acts were urban district councillors. So far as respects the qualification of persons to be elected, the provisions referred to are also to apply as if members of the district boards under those Acts were urban district councillors; but in other respects the election of members of district boards will be conducted as heretofore.

Under the operation of Section 31 of the new Act the electors of the members of the local board of Woolwich, of the vestries under the Metropolis Management Acts, and of the auditors elected under Section 11 of the Metropolis Management Act, 1855, will be respectively the parochial electors of the parish of Woolwich and of the parishes for which vestries are elected. Where the area under the jurisdiction of any of the authorities mentioned is divided into wards, the electors for each ward will be such of the parochial electors as are registered in respect of qualifications within the ward. (Section 23 [3]). The expression "parochial elector" when used with reference to a parish in the county of London is defined by Section 75 to mean any person who would be a parochial elector of the parish if it were a rural parish, and the parochial electors in a rural parish will under Section 2 be the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish. Section 44 of the Act provides for the manner in which the register of the parochial electors of a parish is to be formed.

With respect to the persons to be elected as urban district councillors, it is provided by sub-section (2) of Section 23 that a person shall not be qualified to be elected or to be a councillor unless he is a parochial elector of some parish within the district, or has during the whole of the twelve months preceding the election resided in the district, and no person shall be disqualified by sex or marriage for being elected or being a councillor. This provision is made applicable to members of the local board and the vestries and district boards, and to the auditors for parishes, by Section 31 of the Act.

In connection with the qualification of persons to be elected, reference should be made to the provisions relating to the disquali-

fication of a person for being elected or being a member of a district council, contained in Section 46 of the Act, which by sub-section (9) is made applicable in the case of any authority whose members are elected in accordance with the Act, in like manner as if that authority were a district council, and in the case of London auditors as if they were members of a district council.

An election under the Act will be conducted according to rules to be framed by the Local Government Board (Section 23 [5] and Section 48). If there is a poll, it will have to be taken by ballot.

Copies of the rules for regulating the elections will be forwarded to you when they are issued.

The expenses of any election under the Act are not to exceed the scale fixed by the county council, but if at the beginning of one month before the first election the county council have not framed a scale, the Board may do so, and the scale thus framed will apply to the first election and will have effect as if it had been made by the county council (Section 48 [7]).

The Elections (Hours of Poll) Act, 1885, will apply to elections of members of vestries under the Metropolis Management Acts (Section 31 [1]).

Sub-section (5) of Section 48 provides that if any difficulty arises as respects the election of any individual member of the local board, or vestry, or auditor, and there is no provision for holding another election, the county council may order a new election to be held and give such directions as may be necessary for the purpose of holding the election.

The Act also provides that if any difficulty arises with respect to the holding of the first election of members of the local board or any vestry, or of auditors, or to the first meeting of the local board or vestry, or if, from no election being held or an election being defective or otherwise, the first local board or vestry has not been properly constituted or there are no auditors under the Metropolis Management Acts, 1855 to 1890, or an insufficient number, properly elected, the county council may by order make any appointment or do anything which appears to them necessary or expedient for the proper holding of any such first election and properly constituting the local board, or vestry or auditors, and may, if it appears to them necessary, direct the holding of a meeting or election, and fix the dates for any such meeting or election. Any such order may modify the provisions of the Act, and the enactments applied by, or rules framed under it, so far as may appear to the county council necessary or expedient for carrying the order into effect (Section 80 [1]).

Section 84 provides that the first elections under the Act shall be held on the 8th of November next, or such later date or dates in the present year as the Board may fix, and that the persons elected shall come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of the rules made by the Board under the Act in relation to their election.

By Section 79 persons who, at the passing of the Act, are members of the local board and of any vestry under the Metropolis Management Acts, or are auditors under those Acts, are continued in office until the day on which the first members and auditors elected under the Act come into office, as if the term of office for which they were elected expired on that day, and consequently the usual annual election of such members and auditors respectively will not take

place until the day appointed for the first elections under the Act. Under sub-sections (3) and (10) of the section, the first annual retirement of members of the local board and vestries first elected under the Act will take place at the date of the annual election in the year 1896; and sub-section (6) provides how the members who are to retire in 1896 and 1897, respectively, are to be determined. Except as regards the present year, the dates for the annual elections will not be altered by the Act; but, as indicated above, there will be no annual election in 1895.

The existing local board and the existing vestries are required to take the necessary measures for the conduct of the first elections under the Act of members of the local board and of the vestries respectively, including any appointment of returning officers required by rules made by the board under the Act (Section 79 [1] and [10]).

After the vestrymen first elected under the Act come into office, no person is *ex officio* to be chairman of any of the vestries under the Metropolis Management Acts (Section 31 [1]), but each of the vestries, except those electing district boards, and each of the district boards and the local board of Woolwich must, at their first meeting after the annual election of members, elect a chairman for the year, and the chairman so elected will, unless a woman or personally disqualified by any Act, be by virtue of his office a justice of the peace for the county of London, but before acting as such justice he must, if he has not already done so, take the oaths required by law to be taken by a justice of the peace, other than the oath respecting the qualification by estate (Sections 22 and 31 [2]).

The provisions of Section 41 of the Metropolis Management Act, 1855, enabling a district board to elect a chairman of the meeting, will apply only in the case of the absence of the chairman of the district board elected under the new Act (Section 31 [2]).

Nothing in any local and personal Act is to prevent any vestry in the county of London from holding its meeting at such time as may be directed by the vestry (Section 31 [3]).

Certain provisions of the Metropolis Management Acts which are inconsistent with or are superseded by the provisions above referred to, are repealed by Section 89 and the second schedule to the new Act.

I am, Sir,

Your obedient Servant,

HUGH OWEN, *Secretary*.

The Clerk to the Vestry *or* District Board
or to the Local Board of Woolwich.

LOCAL GOVERNMENT ACT, 1894.

(56 & 57 VICT., c. 73.)

Local Government Board,
Whitehall, S.W. ;
24th March, 1894.

SIR,

I am directed by the Local Government Board to draw the attention of the county council to certain provisions of the Local Government Act, 1894, and especially to those under which powers and duties will devolve on the county council for the purpose of bringing the Act into operation within the county.

Every parish in a rural sanitary district, and in the case of a parish which is partly within a rural sanitary district, the part within such district, will be for the purposes of the Act a rural parish. For every rural parish there will be a parish meeting, and for every rural parish which according to the census of 1891 has a population of 300 or upwards there will be a parish council, which will be elected by the parliamentary and county electors registered in the portions of the parliamentary and county registers relating to the parish. The parish meeting will consist of these persons, who are in the Act described as the parochial electors.

It is not necessary for the present purpose to set out all the powers which will be possessed by a parish council, but in connection with the duties that will devolve on the county council, it may be noticed that most of the powers of the vestry, in other than ecclesiastical affairs, will be transferred to the parish council, and that where the Lighting and Watching Act, 1833, the Baths and Washhouses Acts, 1846 to 1882, the Burial Acts, 1852 to 1885, the Public Improvements Act, 1860, and the Public Libraries Act, 1892, or any of these Acts (which are referred to as the adoptive Acts), have been put in force in a rural parish before the parish council come into office, that council will be the authority for executing the Acts, if they are in force in the whole of the parish. Section 53 of the Act provides means whereby the parish council may become such authority in a case where the Acts are in force in part of the parish only.

The Act makes important alterations in the qualification, mode of election, and retirement of guardians, and confers on county councils new powers in relation to certain matters connected with this subject, which will be explained in a later part of this circular.

Urban sanitary authorities will as from the appointed day be called urban district councils, and their districts will be called urban districts, but the style or title of a town council will not be altered. The mode of election of urban district councillors will, except in a borough, differ from that at present in force, and certain powers are given to county councils in connection with the retirement of urban district councillors. These will be referred to hereafter.

For every existing rural sanitary district wholly comprised in one county there will be a rural district council, whose district will be called a rural district, and where a rural sanitary district

is situate in more than one county, such portion of it as is situate in each county will, save as otherwise provided in pursuance of the Act, or of any other Act, be as from the appointed day a rural district. District councillors will be elected for every parish or other area for the election of guardians in a rural district. They will be elected by the parochial electors, and will be the representatives of that parish or area on the board of guardians, and guardians as such will not be elected for that parish or area.

The provisions of the Act with respect to the qualification, election, term of office, and retirement of guardians will apply to rural district councillors. Hence the powers of the county council in relation to these matters, so far as guardians are concerned, will apply in the case of rural district councillors also.

Rural district councils will be substituted for rural sanitary authorities, and will have all the powers and duties of those authorities. They will have certain new powers and duties under the Act, but except in connection with highways, it is unnecessary to draw the attention of the county council to any of these powers or duties. The provisions as to highways are dealt with in a later part of this circular.

The provisions which should first receive the attention of the county council are those contained in Part III of the Act, which relate to areas and boundaries.

The Act contemplates that every parish and, as a general rule, every rural district shall be wholly within one administrative county, and that, also as a general rule, every parish shall be wholly within one rural or urban district. With a view to secure this result, and to provide for the settling of incidental administrative arrangements consequent on the alterations of areas which are made by the Act itself, very important duties have been imposed on county councils.

Section 83 makes it the duty of every county council to exercise all such of their powers as may be requisite for bringing the Act into full operation within their county as soon as may be after the passing of the Act.

The first elections under the Act are to be held on the 8th November next, or such later date or dates in the present year as the Board may fix, and the persons elected are to come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of rules made by the Board under the Act in relation to their election. (Section 84.) It is important that alterations which may affect the preparation of the lists of voters should be made sufficiently early to enable the lists to be properly prepared, and it is consequently provided by sub-section (3) of Section 84 that every division into wards or alteration of the boundaries of any parish or union or district which is to affect the first election shall, if parishes or parts for which the registers of parochial electors will be made are affected, be made, so far as practicable, before the 1st of July next.

Many of the provisions of the Act referred to in this circular are to take effect from the "appointed day." Subject as mentioned in the Act, this day, for the purpose of elections, is defined as the day or respective days fixed for the first elections under the Act, or such prior day as may be necessary for the purposes of giving notices or doing other acts preliminary to such elections, and for the purpose of the powers, duties, and liabilities of councils or other bodies elected under the Act, or other matters not speci-

fically mentioned, it will be the day on which the members first elected come into office.

The powers and duties of county councils, so far as they may have to be exercised either before or in connection with the first elections may be classified under the following heads:—I. Areas and Boundaries. II. Parish Councils. III. Guardians and District Councillors. IV. Highways. V. Miscellaneous.

I. AREAS AND BOUNDARIES.

Sub-section (1) of Section 36 provides as follows:

For the purpose of carrying this Act into effect in the case of—

- (a) every parish and rural sanitary district which at the passing of this Act is situate partly within and partly without an administrative county; and
- (b) every parish which at the passing of this Act is situate partly within and partly without a sanitary district; and
- (c) every rural parish containing a population of less than 200; and
- (d) every rural sanitary district which at the passing of this Act has less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district; and
- (e) every rural parish which is co-extensive with a rural sanitary district;

every county council shall forthwith take into consideration every such case within their county; and whether any proposal has or has not been made as mentioned in Section 57 of the Local Government Act, 1888, shall as soon as practicable, in accordance with that section, cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect the present Act in accordance with the following provisions, namely:

- (i) The whole of each parish, and, unless the county council for special reasons otherwise direct, the whole of each rural district shall be within the same administrative county;
- (ii) The whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district; and
- (iii) Every rural district which will have less than five elected councillors shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.

By sub-section (11) of Section 36 it is provided that, where at the passing of the Act a rural sanitary district or parish is situate in more than one county, a joint committee of the councils of the several counties comprising the district or parish shall act under the section. The appointment by each county council of representatives on the joint committee is to be made within two months after request from any other of the councils interested. If any of the councils fail to appoint members of the committee within that period, the members actually appointed are to act. Any question relating to the constitution or procedure of the joint committee as to which the councils concerned are unable to agree, is to be determined by the board.

The first case mentioned in Section 36 is that of a parish in more than one administrative county. In many instances of this kind the rural district will also be in more than one county, and the Board have dealt with them later on, in their remarks on cases where the rural district is so situate.

The county council will also have to consider the case of any parish which is not wholly contained within one sanitary district, and these cases include some in which the parish is in more than one county also. If at the passing of the Act a parish is partly within and partly without a rural sanitary district, that is to say, is partly in such a district and partly in an urban district, and no action is taken by the county council prior to the appointed day, the parish will as from that date be divided by the Act, the part within the rural district and the part without being constituted separate parishes by sub-section (3) of Section 1.

Where the part outside the rural district is comprised in more than one urban district, the provisions of sub-section (2) of Section 36 referred to below will apply to it.

If the rural part of the parish is deemed too small to form a separate parish, the county council should consider whether it could properly be united with some other rural parish. It would, however, be competent to the county council, if the circumstances justified it, by an order under Section 57 of the Act of 1888, to extend any urban district, not being a borough, containing part of the parish, so as to include the rural part of the parish.

If a parish is situate in two or more urban districts, the part in each urban district will, unless the county council otherwise direct, and subject to any alteration of area made by or in pursuance of the new Act or of any other Act, become as from the appointed day, a separate parish. (Section 36 [2].) The county council can either alter the boundary between the urban districts, if neither of them is a borough, so as to include the whole parish within one district, or direct that the parish and urban districts shall remain unaltered, but the latter course would be opposed to the general scheme of the Act, and can only properly be adopted where there are special reasons for it. These observations apply equally to the urban part of a parish situate partly in a rural and partly in two or more urban districts. In any case, such as those mentioned above, where the parish is situated partly in a borough, the boundary of the borough could be altered by an order of the Board under Section 54 of the Local Government Act, 1888. The county council or a joint committee could not properly make an order which would place or leave a parish in more than one county. It would be inconsistent with the Local Government Act, 1888, that an urban district should be in more than one county.

Where a parish is divided by the Act into two or more new parishes, sub-section (9) of Section 36 directs that those parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was included, and sub-section (1) of Section 79 directs that, subject to any order made by the county council, there shall be one guardian, and in the case of a new parish in a rural district, one district councillor for each of the new parishes. Many of the parishes which will be divided by the Act are at present entitled to more than two guardians, and not only in these cases, but in every other to which the above provision applies, the county council may be called upon to make an order as to the future representation of the new parishes.

The county council will have power to give names to the new parishes formed by the Act, although no order for any alteration of area has been made by them. (Section 55 [2].)

It is provided by sub-section (11) of Section 79 of the new Act that the overseers of any parish divided by the Act shall, until the first appointment of overseers next after the appointed day,

continue in office as if they were overseers of each part of the parish, which by reason of such division becomes a separate parish.

The case of parishes with a population under 200 is dealt with under the head of parish councils.

It is to be observed that when parishes are divided, and new parishes are constituted by the Act, whether under Section 1 (3) or Section 36 (2), they are to be separate parishes in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same. The formation of parishes under the Acts referred to has no effect as regards the constitution of school districts without the sanction of the Education Department.

Taking next the case of the rural sanitary districts situate in more than one county, the Act provides that where any such district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county shall be as from that day a rural district, save as otherwise provided by or in pursuance of this or any other Act. (Section 24 [5].) Unless, therefore, as regards any particular rural sanitary district not wholly comprised within one county, a joint committee of the county councils interested for special reasons otherwise direct, the district will be divided by the Act.

In a case where a rural sanitary district is in more than one county, but none of the parishes in the district overlap the boundary of any county, the first question for consideration will be whether any special reasons exist for directing that the district shall not be divided in the manner contemplated by sub-section (5) of Section 24. The Act does not define what special reasons may be regarded as sufficient for interfering with the operation of that section, and the discretion of the joint committee of the county councils is, therefore, unfettered in that respect. If it is considered that there are special reasons for not dividing the district, but it is deemed expedient that the boundary between the counties should be altered so as to include the whole of the district within one county, this alteration can be effected by an order of the Board under Section 54 of the Local Government Act, 1888. (*See* sub-section [5] of Section 36 of the new Act.)

If the division of the district is not interfered with, but the effect of it would be to create a rural district having less than five elective councillors, the case comes under paragraph (iii) of sub-section (1) of Section 36, which requires that any such district shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts. This applies also to rural districts having less than five elected councillors which already exist, irrespective of county boundaries. If the county council find that there are sufficient reasons for not uniting the district to some neighbouring district or districts, as, for instance, in a case where the severed part is entirely rural in character, and there is no other rural district within a convenient distance to which it could be united, they may make an order accordingly, and if the order is confirmed it will devolve on the Board, under sub-section (5) of Section 24, to nominate members of the district council in order to make the number up to five, or to take some other action under that sub-section.

If no special reasons to the contrary exist, the council must make an order uniting the district to some neighbouring district or districts. The Act does not require that the district should neces-

sarily be united to another rural district; and its provisions would apparently be complied with if the district were united to a neighbouring urban district, although usually, no doubt, the proper course would be to unite it with a neighbouring rural district. The district might, however, be divided by the order of the county council, part being added to one neighbouring district, and part to another.

In any case where a new rural district is formed by the Act, and in any other case where there is any doubt as to the name of a rural district, the county council will have to direct what shall be the name of the district.

Cases where a parish within a rural sanitary district overlaps the boundary of the county will be more complicated. In these cases arrangements must be made to prevent the overlapping of the county boundary by the parish, even if the rural district is allowed to be in more than one county. As a rule, it would seem in these cases that the parish should be divided by order of the county council, but the Act will admit of an alteration of the county boundary if that course seems expedient.

It is to be borne in mind that the Act itself does not form separate parishes of the parts of a parish situate in different administrative counties. The division under sub-section (5) of Section 24 of a rural sanitary district comprising such a parish will not affect the parish in this respect, but the parish will have to be divided by order of the county council, unless the county boundary is altered so as to include the whole of the parish in one county. Where a parish is so divided, the order of the county council must contain directions as to the number of guardians and district councillors to be elected for each of the new parishes formed by the order.

The alteration of a rural district by or in pursuance of the Act will not affect the area of the poor law union with which at present the district is co-extensive, or in which it is comprised, but where the alteration of a poor law union seems expedient by reason of any of the provisions of the Act, the county council are empowered by sub-section (6) of Section 36, to provide by their order for such alteration.

Where the alteration of the boundary of a county is deemed expedient for any of the purposes mentioned in Section 36, application should, as already indicated, be made to the Board for an order under Section 54 of the Local Government Act, 1888. If it is proposed that the boundary of a borough should be altered for these purposes a like application should be made (Section 35 [5]).

Where the alteration of the boundary of any parish, or the division thereof, or the union thereof, or of part thereof with another parish, seems expedient for any of the purposes of the Act, provision for such alteration, division, or union, may be made by an order of the county council under Section 57 of the Act of 1888 (Section 36 [8]).

The provisions of Section 59 of the Local Government Act, 1888, will apply to any order for the purposes of the present Act that may be made under Section 57 of that Act, and Section 69 of the new Act provides that in any case where an alteration of any area is made by the Act, an order may be made by the county council, or, in the case of an area situate in more than one county, by a joint committee of county councils, for any of the matters mentioned in Section 59 of the Act of 1888. Under these powers adjustments may be made of any property, debts, and liabilities

affected by the alteration, and directions may be given for effecting any subsidiary arrangements rendered necessary by the alteration.

Sub-section (12) of Section 36 requires that every report made by the Boundary Commissioners under the Local Government Boundaries Act, 1887, shall be laid before the council of any administrative county affected by that report, and before any joint committees of county councils. The sub-section further provides that it shall be the duty of the councils and joint committees to take these reports into consideration before framing any order under the powers conferred on them by the Act. The county council will not be bound to give effect to the recommendations of the Commissioners, but the reports in question will be found to be of assistance in arriving at a decision in regard to any matter dealt with therein.

II.—PARISH COUNCILS.

Under Section 3 of the Act the county council are required to fix the number of councillors to be elected for each rural parish which will have a parish council. The number is to be not less than 5 nor more than 15, and it should be fixed sufficiently early for proper arrangements to be made for the candidature of persons desirous of offering themselves for election at the first election.

In any case where there is any doubt as to the name of the parish for which a parish council is elected, the name will be such as the county council, after consultation with the parish meeting, may direct (Section 3 [9]).

The county council may be applied to by the parish council, or not less than one-tenth of the parochial electors of a parish, or before the appointed day by the vestry or a like number of the ratepayers of the parish, to divide the parish into wards for the purpose of electing parish councillors; and on being satisfied that the area or population of the parish is so large, or different parts of the population so situated, as to make a single parish meeting for the election of councillors impracticable or inconvenient, or that it is desirable for any reason that certain parts of the parish should be separately represented on the council, the county council may make an order for the purpose. The order must fix the boundaries of the wards and the number of councillors to be elected for each ward. In making the order regard must be had to the population according to the last published census for the time being, and to the evidence of any considerable change of population since that census, and to area and to the distribution and pursuits of the population, and to all the circumstances of the case (Sections 18 and 84 [3]).

Section 1 of the Act provides for the grouping of two or more parishes under a common parish council, subject to the proviso that parishes shall not be grouped without the consent of the several parish meetings. For this purpose the section enacts that an order may be made by the county council under Part III of the Act.

The county council may, with the consent of the parish meetings, make such an order either on their own initiative, or on the application of the parish meeting of any of the parishes proposed to be grouped. If any such application is made, it must be taken into consideration forthwith (Section 38 [4]).

The whole of the parishes to be formed into a group should, as a rule, be within the same county and county district, but if there are special reasons for grouping parishes in adjoining counties or

county districts, the county council may depart from the rule (Section 38 [2]).

The order must make provision for the name of the group, and as under Section 1 each of the grouped parishes is to have a separate parish meeting, it must make any necessary provisions as to this also. It is further enacted that a grouping order shall provide for the election in manner provided by the Act of separate representatives of each parish on the parish council, and that it may provide for the consent of the parish meeting of a parish to any particular act of the parish council or for any other adaptations of the Act to the group of parishes, or to the parish meetings in the group. The mode of election of parish councillors is determined by Sections 3 and 48. Further, the grouping order must provide for the application of the provisions contained in Sections 14 and 17 of the Act with respect to the appointment of trustees and beneficiaries of charities, and the custody of documents, so as to preserve the separate rights of each parish.

The county council will be empowered to order the establishment of parish councils in rural parishes which, according to the census of 1891, have a population of less than 300 (Section 1). If in the case of a rural parish with less than 300 but more than 100 inhabitants, the parish meeting so resolve, the county council must, by an order under Part III of the Act, provide for the establishment of a parish council. In this case, the county council will have no alternative but to issue the order if the necessary resolution is passed.

In regard to any rural parish with less than 100 inhabitants, the county council may issue an order establishing a parish council, if the parish meeting consent, but the parish will have no right to demand that a parish council should be established. The grant of a parish council will be in the discretion of the county council. Subject, however, to the necessity for obtaining the consent of the parish meeting the county council may act in these cases on their own initiative; but if the population of a parish is less than 200 the parish meeting may apply for a parish council under sub-section (4) of Section 38, and any such application must forthwith be taken into consideration by the county council.

Where a rural parish is co-extensive with a rural sanitary district, sub-section (4) of Section 36 provides that until the district is united to some other district or districts, and unless the county council otherwise direct, a separate election of a parish council shall not be held for the parish, but the district council shall in addition to their own powers have the powers of and be deemed to be the parish council. In these cases, therefore, it will rest with the county council to determine whether the rule laid down in the sub-section should be departed from; and in any such case it will be competent to the county council to make an order directing that a parish council shall be elected for the parish. There is no special reason, however, why these cases should be dealt with before the first elections under the Act.

III.—GUARDIANS AND DISTRICT COUNCILLORS.

Under Section 60 of the Act, the county council will have power to fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and it is provided that for those purposes the council may exercise powers of adding parishes to each other and dividing parishes into wards, similar to

those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Board.

The power to add parishes to each other for the purpose of the election of guardians is conferred on the Board by Section 6 of the Poor Law Amendment Act, 1868 (31 & 32 Vict., c. 122). That section provides that the Board may add any parish in a union, the population of which does not exceed 300, and the aggregate rateable value of which does not exceed the average rateable value of the parishes in the same union, to some adjoining parish in the union for the purpose of the election of guardians. The county council will thus be able to add any such parish, if it is an urban parish, to any other urban parish in the union, for the purpose of the election of guardians, and to add any such parish, if it is a rural parish, to any other parish in the rural district for the purpose of the election of rural district councillors; but they will not be able to add an urban parish to a rural parish, or *vice versa*.

The power conferred on the Board by the Poor Law Acts to divide parishes into wards for the election of guardians is contained in Section 12 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict., c. 61), which enables the Board to divide any parish into wards for the election of guardians and to determine the number of guardians to be elected for each ward, due regard being had to the value of the rateable property therein.

Under Sections 20, 24, and 60 of the new Act, the county council will regulate the retirement of guardians and rural district councillors. The first of these sections provides generally that the term of office of a guardian shall be three years, and that one-third, as nearly as may be, of every board of guardians shall go out of office on the 15th April in each year. Where, however, the county council on the application of a board of guardians consider that it would be expedient to provide for the simultaneous retirement of the whole board, they may direct that the members shall retire together on the 15th April in every third year. Where a union is in more than one county, an order for this purpose may be made by a joint committee of the councils of the counties concerned. There are some cases in which at the present time the whole of the guardians retire at the end of every third year in pursuance of an order of the Board, and in these cases the guardians are to continue so to retire, unless the county council, or a joint committee of the county councils, on the application of the board of guardians, or of any district council of a district wholly or partially within the union, otherwise direct.

Section 24 makes the provisions of the Act with respect to the term of office and retirement of guardians applicable to the district councillors of a rural district. In any case where such a district is in more than one union, it will be necessary to secure that the mode of retirement of the guardians of the unions shall be the same, as otherwise there may be serious difficulties in connection with the constitution of the district council.

Section 60 provides that the council of each county may for the purpose of regulating the retirement of guardians or rural district councillors, in cases where they retire by thirds, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire.

Where the union is situate in more than one county, the power of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and of

district councillors, is to be exercised by a joint committee of the councils of the counties concerned; but if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed will have power to act as the joint committee. If any order made by a joint committee under this provision is within six weeks after the making thereof objected to by any of the county councils concerned, or by any committee of any of those councils authorised in that behalf, the order will be inoperative until confirmed by the Board. (Section 59.)

Where the guardians and rural district councillors are to retire by thirds, in accordance with the rule prescribed by Section 20, it will be necessary, as the full number of guardians or district councillors will be elected at the first election, to provide for retirements in the years 1896 and 1897. There will be no retirements under the Act before 1896 (Section 78). The question as to the guardians and rural district councillors who will have to retire in the two years mentioned, is under sub-section (4) of Section 79 to be determined by the county council with reference to the parishes, wards, or other areas for which the guardians or councillors are elected.

IV.—HIGHWAYS.

Section 25 of the Act provides that as from the appointed day, there shall be transferred to the district council of every rural district all the powers, duties, and liabilities of any highway authority in the district, that highway boards shall cease to exist, and that rural district councils shall be the successors of the highway authorities. It is, however, enacted that the council of any county may by order postpone within their county, or any part thereof, the operation of this section, so far as it relates to highways, for a term not exceeding three years from the appointed day or such further period as may, on the application of the county council, be allowed by the Board.

The expression "highway authority" as used in the Act, means as respects a highway district, the highway board, or authority having the powers of a highway board, and as respects a highway parish, the surveyor or surveyors of highways, or other officers performing similar duties. (*See Local Government Act, 1888, Section 100; Local Government Act, 1894, Section 75.*)

The effect of Section 25 will be that all these highway authorities will cease to exist on the day on which the first rural district councillors come into office, and that the rural district councils will thereupon become the highway authorities, unless the county councils postpone the operation of the section.

By Section 79, persons who are members of highway boards at the passing of the Act will be continued in office until the day on which the first rural district councillors come into office, that is, as at present fixed, the second Thursday after the 8th of November next, as if the terms of office for which they were elected expired on that day, and consequently the usual annual election of waywardens will not take place.

The election of surveyors of highways under the Highway Act, 1835, will however take place, as usual, at the first meeting in vestry for each parish, not in a highway district, for the nomination of overseers in the present year.

An order under Section 25 is, by Section 84, to make such provision as may be necessary for holding elections of highway boards in any interval during which the operation of Section 25 is

postponed. This provision will enable the county council to give directions in their order for the election of waywardens in place of those who will cease to hold office, as mentioned above, when the rural district councillors come into office, and also to order for what period such waywardens shall be elected, having regard to the period of postponement.

No similar provision appears, as a rule, to be required as regards the annual election of surveyors for parishes not in highway districts during the interval referred to, and the effect of the postponement of the operation of Section 25 would seem to be that in such a case surveyors will continue to be elected from year to year so long as necessary. But in the case of new rural parishes formed by or in pursuance of the Act, it may be necessary, in the event of the county council postponing the operation of Section 25 to provide for the election of surveyors to act for periods until the next ordinary time for electing surveyors.

This course will not be requisite as regards a parish partly within and partly without an urban district, which, by virtue of Section 216 of the Public Health Act, 1875, is at the present time treated as wholly within the urban district for highway purposes, because, if the county council postpone the operation of Section 25, the part of the existing parish which is outside the urban district will continue subject to Section 216 of the Act of 1875 until the rural district council become the highway authority, notwithstanding that it may have become a separate parish.

V.—MISCELLANEOUS.

Sub-section (7) of Section 48 of the Act requires the county council to fix a scale for the expenses of elections under the Act, *i. e.* of elections of parish and district councillors and guardians. If, at the beginning of one month before the first election, the county council have not framed any such scale for their county, the Board will have power to frame a scale for the purposes of that election. The Board will be glad to receive a copy of the scale framed by the county council under this section as soon as it has been approved by the council.

Under Sections 48 and 80 the county council will have very extensive powers for the removal of any difficulties that may arise in connection with the election of parish and district councillors and guardians, and generally in bringing the Act into operation within their county. Sub-section (5) of Section 48 provides that if any difficulty arises as respects the election of any individual councillor or guardian, and there is no provision for holding another election, the county council may order a new election to be held and give such directions as may be necessary for the purpose of holding the election.

Under Section 80, if any difficulty arises with respect to the holding of the first parish meeting of a rural parish, or to the first election of parish or district councillors, or of guardians, or to the first meeting of a parish or district council, or board of guardians, or if, from no election being held, or an election being defective or otherwise, the first parish or district council, or board of guardians, has not been properly constituted, the county council may, by order, make any appointment or do any thing which appears to them necessary or expedient for the proper holding of any such first meeting or election, and properly constituting the parish or district council or board of guardians. They may, if it appears to them necessary, direct the holding of a meeting or election, and fix the

necessary dates for the purpose. Any such order may modify the provisions of the Act, and the enactments applied by, or rules framed under it so far as may appear to the county council necessary or expedient for carrying the order into effect.

If a parish council or a district council, other than a borough council, become unable to act whether from a failure to elect or otherwise, the county council may order elections to be held and may authorise persons to act temporarily in place of the parish or district council and the chairman of the parish council. (Section 47 [5] and Section 59 [5].)

Under Section 17 each parish council will be empowered to appoint an unpaid treasurer, and this officer is to give such security as may be required by regulations of the county council. It is desirable that such regulations should be made before the parish councils come into office. They may provide both as to the character and as to the amount of the security to be taken from the treasurers, and the Board suggest that they should be so framed as to require such security to be given by these officers as will be sufficient to cover the amount likely to be in their hands belonging to the parish councils at any one time.

It is now necessary to refer to the provisions which will govern the procedure of the county council in regard to the issue of orders for the purposes mentioned above.

Sub-section (10) of Section 36 directs that, subject to the provisions of the Act, any order made by a county council in pursuance of Part III of the Act (as to areas and boundaries) shall be deemed to be an order under Section 57 of the Local Government Act, 1888. Every such order will consequently have to be made in accordance with the provisions of that section, and of the regulations issued by the Board thereunder, and, with the exceptions mentioned in Section 40 of the Act (to which attention should be specially directed), will require confirmation by the Board in the manner prescribed by Section 57 of the Act of 1888.

An important amendment of the section referred to is made by Section 41 of the new Act, which provides that the time for petitioning to the Board against an order of a county council under the section shall be six weeks instead of three months after the first notice of the provisions of the order.

The Act also provides that any board of guardians affected by an order under Part III of the Act, are to have the same right of petitioning against the order as is given by Section 57 of the Act of 1888 to other authorities (Section 36 [10]); and that where any of the areas referred to in Section 57 of the Act of 1888 is situate in two or more counties, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee appointed by the county councils concerned is, subject to the terms of delegation, to be deemed to have and to have always had power to make orders under the section with respect to that area. (Section 36 [11].)

An order made under Section 60 of the new Act as to the number or retirement of guardians or rural district councillors will, as already mentioned, require confirmation by the Board if, in the case of a union situate in more than one county, the order is objected to by any of the county councils concerned or by a committee of any of those councils authorised in that behalf.

Among the orders that will not be subject to the provisions of Section 57 of the Act of 1888, and will not require to be submitted to the Board, are orders of the county council fixing the number of

parish councillors for a parish or dividing a parish into wards for the election of parish councillors.

An order made by the county council under Section 25, postponing within their county or some part thereof the operation of that section as regards highways, will not require the confirmation of the Board, although, if it is proposed to postpone the operation of the section for more than three years from the appointed day, the postponement will require allowance by the Board.

In connection with the orders of the county council under this Act, it may be pointed out that by Section 42 it is provided that in any case where an order under Section 57 of the Act of 1888 (including any order made or deemed to have been made thereunder for the purposes of this Act) has been confirmed by the Board, such order is at the expiration of six months from the date of confirmation to be presumed to have been duly made, and to be within the powers of that section, and no objection to the legality thereof can be entertained.

A copy of every order made by a county council or joint committee in pursuance of the Act is to be sent to the Board, and, if it alters any local area or name, a copy must be sent also to the Board of Agriculture. (Section 71.)

Sub-section (2) of Section 80 requires that the Board shall issue regulations for expediting and simplifying the procedure under Section 57 of the Act of 1888 in all cases in the year 1894, for the purpose of bringing the Act into immediate operation.

The board have issued an order for this purpose, which, as regards the cases referred to, will take the place of the regulations made by them on the 14th September, 1889, except where notice of a local inquiry has been given before the date of the order.

It will be found that the new regulations materially expedite and simplify the procedure under Section 57 of the Act of 1888, and the Board may draw special attention to the provisions in Article VIII (3). In cases in which an order made under the section does not require confirmation by the Board, it has hitherto been necessary that the order, after having been made, should be again approved by the county council after certain notices have been given and a specified interval has elapsed. The effect of the provision in Article VIII (3) will be that no final approval on the part of the county council will be requisite, if the requirements of Articles IV and VIII have been complied with.

It will also be observed that under Article IX the expression "county council," as used in the order, will include a committee of the county council, to whom they have delegated their powers under the Act of 1894, and also a joint committee appointed by any county council for the purpose of dealing with any cases in which they are jointly interested.

The board enclose six copies of the order, and they have caused it to be placed on sale. If, therefore, further copies are required, they can be purchased from Messrs. Eyre and Spottiswoode, East Harding Street, London, E.C., either directly or through any bookseller. Copies of this circular can also be purchased in the same way.

It has sometimes been pointed out by county councils that no provision was made by the Local Government Act, 1888, as to the expenses of inquiries held by them under the Act. It is now provided by sub-section (4) of Section 72 of the new Act, that where a county council hold a local inquiry under the Act or under the Act of 1888 on the application of a parish council or district council,

or of any inhabitants of a parish or district, the expenses incurred by the county council in relation to the inquiry (including the expenses of any committee or person authorised by the county council) are to be paid by the council of that parish or district, or, in the case of a parish which has not a parish council, by the parish meeting. Subject to this, however, the expenses of the county council incurred in the case of inquiries under the Act must be paid out of the county fund.

Section 44 contains provisions as to the register of the parochial electors which is to be formed alike for urban and for rural parishes for the purposes of elections under the Act. The Board do not consider it necessary to refer to these provisions in detail; but the attention of the county council should be directed to the proviso to sub-section (3) of Section 84, under which, if the county council have under consideration any division into wards or alteration of the boundaries of any parish, or union, or district which is to affect the first election, they may direct that the lists of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish, union, or district, or for the same when divided or altered.

In making any such division or alteration at any time in the month of July or August next, the county council may direct their clerk to make such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward, union, or district in which his qualification is situate, and it will, of course, be the duty of the clerk to give effect to any such direction. (Section 84.)

The orders of the county councils altering areas may direct that for the purpose of preparing the lists and registers of electors for the first elections of parish and district councillors, the orders shall take effect at such time as to enable the overseers to make out the lists for the altered areas, although the areas will not be actually altered until the appointed day.

Numerous powers and duties besides those which have been indicated above are conferred on county councils by the Act, but the Board do not think it necessary to specify them on this occasion, as their present purpose is to bring under the notice of the county council those powers and duties which may have to be exercised for the purpose of bringing the Act into operation, and they believe that they have now mentioned all that need be referred to with this object.

It is evident that in order that effect may be given to the intentions of the legislature, it is requisite that the county councils should without delay set about the exercise of the important powers which have been entrusted to them. As the Board have already pointed out, Section 83 makes it the duty of every county council to exercise all such of their powers as may be required for bringing the Act into full operation within their county as soon as may be after its passing, and enables them to delegate their powers under the Act to a committee, and the Board feel assured that they may rely on every effort being used by the county council to bring the Act into full operation in their county at the earliest possible date.

The Board strongly recommend them forthwith to appoint a committee for carrying out the Act if they have not already done so, and to delegate to such committee their powers under it.

They also recommend that either such committee or the council should at once place themselves in communication with the

councils of the other counties in which parishes or rural sanitary districts partly within and partly without the county are situate, with a view to the immediate appointment of any joint committees necessary to enable such cases to be dealt with.

The Board would further suggest that the clerks to rural and urban sanitary authorities should, as soon as possible, be applied to for information as to whether the districts of those authorities come within the cases mentioned in Section 36 of the Act, or contain parishes or parts of parishes which are within those cases. In the meantime, the parliamentary returns relating to counties and poor law parishes of which copies are enclosed will give the most recent information that has been published as to the cases where parishes and rural sanitary districts are in more than one county. The return relating to poor law parishes also shows the number of parishes partly in rural sanitary districts. The names of parishes partly in urban sanitary districts may be obtained from the tables numbered 4 in the second volume of the Report on the Census of 1891, but there have been alterations since the date of the census, and these tables may not now be quite accurate.

As regards the matters referred to under the head of parish councils, the Board have already pointed out that the number of councillors should be fixed sufficiently early for proper arrangements to be made for the candidature of persons desirous of offering themselves for election at the first election. With this exception, it would seem that unless application is made by the vestry, or one-tenth of the ratepayers of a parish, to divide the parish into wards, it will not devolve on the county council to make any orders with respect to these matters before the appointed day. By Section 36 the council are required to take into consideration the cases of small rural parishes, but no order for the grouping of such parishes, or the establishment of parish councils therein, could actually be made without the consent of the parish meeting given after the appointed day.

As regards Section 25 of the Act, it will of course be necessary that any order postponing the transfer of the powers of highway authorities should be made before the appointed day.

Some inquiries have been addressed to the Board with respect to the meaning of the word "parish" as used in this Act. They may state, therefore, that it bears the meaning given to it by Section 5 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), which provides that unless the contrary intention appears, the expression shall mean a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed.

I am, Sir,

Your obedient Servant,

HUGH OWEN, Secretary.

The Clerk to the County Council.

LOCAL GOVERNMENT ACT, 1894.

(56 & 57 VICT., c. 73.)

Local Government Board,
Whitehall, S.W. ;
30th April, 1894.

SIR,

I am directed by the Local Government Board to draw the attention of the town council to certain provisions of the Local Government Act, 1894, under which powers and duties will devolve on the council for the purpose of bringing the Act into operation within the borough.

These provisions have reference to the alteration of areas and boundaries, and the election of guardians. Important powers in relation to these matters are conferred by the Act on county councils, and under Section 75 (2) the expression "county council," when used in the Act, includes, unless the context otherwise requires, the council of a county borough.

Under Section 83 it is the duty of the town council of every county borough to exercise all such of their powers as may be requisite for bringing the Act into full operation within the borough as soon as may be after its passing.

Section 84 provides that the first elections of guardians under the Act shall be held on the 8th November next, or such later date or dates in the present year as the Board may fix, and the persons elected are to come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of rules made by the Board under the Act in relation to their election. It is important that alterations which may affect the preparation of the lists of voters should be made sufficiently early to enable the lists to be properly prepared, and it is consequently provided by sub-section (3) of Section 84 that every division into wards or alteration of the boundaries of any parish or union or district which is to affect the first election shall, if parishes or parts for which the registers of parochial electors will be made are affected, be made, so far as practicable, before the 1st of July next.

By "parochial electors" are meant, with reference to a parish in a county borough, the persons who would be the parochial electors of the parish if it were a rural parish, namely, the persons registered in such portion either of the Local Government register of electors or of the parliamentary register of electors as relates to the parish (Sections 2 [1] and 75).

Many of the provisions of the Act referred to in this circular are to take effect from the "appointed day." Subject as mentioned in the Act, this day, for the purpose of elections, is defined as the day or respective days fixed for the first elections under the Act, or such prior day as may be necessary for the purpose of giving notices or doing other acts preliminary to such elections, and, for the purpose of the powers, duties, and liabilities of councils or other bodies elected under the Act, or other matters not specifically mentioned, it will be the day on which the members first elected come into office (Section 84).

I.—AREAS AND BOUNDARIES.

The provisions which should first receive the attention of the town council are those contained in Part III of the Act which relate to areas and boundaries.

Sub-section (1) of Section 36 provides (amongst other things) as follows:

For the purpose of carrying this Act into effect in the case of—

(a) every parish . . . which at the passing of this Act is situate partly within and partly without an administrative county; and

(b) every parish which at the passing of this Act is situate partly within and partly without a sanitary district;

every county council shall forthwith take into consideration every such case within their county; and whether any proposal has or has not been made as mentioned in Section 57 of the Local Government Act, 1888, shall, as soon as practicable, in accordance with that section, cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect the present Act in accordance with the following provisions, namely—

(i) The whole of each parish shall be within the same administrative county; and

(ii) The whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district.

The expression “county district” does not include a county borough; but, with that exception, includes every urban and rural district, whether a borough or not, *i. e.* every urban and rural sanitary district within the meaning of the Public Health Act, 1875, other than a county borough (Section 21).

By sub-section (11) of Section 36 it is provided that, where at the passing of the Act a parish is situate in more than one county, a joint committee of the councils of the several counties comprising the parish shall act under the section. The expression “county” includes a county borough (Section 75). The expression “administrative county” only includes a county borough where this is expressly stated (Section 100 of the Local Government Act, 1888, and Section 75 of the Local Government Act, 1894); but a parish partly within and partly without a county borough would, the Board believe, be in every case a parish partly within and partly without an administrative county, as defined by the Act of 1888. It would in any case be a parish partly within and partly without a sanitary district. Consequently it will be necessary that joint committees of the councils of the county and county borough should be appointed to act under Section 36, with respect to every parish which is now partly within and partly without a county borough.

The appointment by the council of each county or county borough of representatives on any joint committee for the purposes of Section 36 is to be made within two months after request from any other of the councils interested. If any of the councils fail to appoint members of the committee within that period, the members actually appointed are to act. Any question relating to

the constitution or procedure of the joint committee as to which the councils concerned are unable to agree is to be determined by the Board.

If a parish is partly within a county borough and partly within a rural sanitary district, and no action is taken under Section 36 prior to the appointed day, the parish will as from that date be divided by the Act, the part within the rural district and the part without being constituted separate parishes by sub-section (3) of Section 1.

Sub-section (2) of Section 36 provides that where a parish is at the passing of the Act situate in more than one urban district, the parts of the parish in each such district shall, as from the appointed day, unless the county council for special reasons otherwise direct, and subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.

As regards the manner in which these cases might be dealt with by the joint committee, it is to be borne in mind that Section 36 expressly directs that the orders shall be so made that the whole of each parish shall be within the same administrative county. An order could not therefore be made directing that a parish, now partly within a county borough and partly within an administrative county, should so remain. The parts of the parish might be added to other parishes by orders under the section, instead of being allowed to become separate parishes in pursuance of the Act.

In any case such as those mentioned above, the boundary of any borough in which the parish is partly situated could, on the necessary application, be altered by an order of the Board under Section 54 of the Local Government Act, 1888.

Where a parish is divided by the Act into two or more new parishes, sub-section (9) of Section 36 directs that these parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was included, and sub-section (2) of Section 79 directs that, subject to any order made by the county council, there shall be one guardian, and in the case of a new parish in a rural district, one district councillor for each of the new parishes. Many of the parishes which will be divided by the Act are at present entitled to more than two guardians, and in such cases, if a county borough is concerned, it is desirable that a joint committee of the county and town councils should be appointed to settle the future representation of the new parishes.

The town councils of county boroughs will have power to give names to any new parishes formed by the Act within such boroughs, although no order for any alteration of area has been made (Section 55 [2]).

It is provided by sub-section (11) of Section 79 that the overseers of any parish divided by the Act shall, until the first appointment of overseers next after the appointed day, continue in office as if they were overseers of each part of the parish, which by reason of such division becomes a separate parish.

It is to be observed that when parishes are divided, and new parishes are constituted by the Act, whether under Section 1 (3) or Section 36 (2), they are to be separate parishes in like manner as if

they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same. The formation of parishes under the Acts referred to has no effect as regards the constitution of school districts, without the sanction of the Education Department.

Where the alteration of the boundary of any parish, or the division thereof, or the union thereof, or of part thereof with another parish, seems expedient for any of the purposes of the Act, provision for such alteration, division, or union may be made by an order of the county council, or of a joint committee of county councils, under Section 57 of the Act of 1888 (Section 36 [8] and [11]).

The provisions of Section 59 of the Local Government Act, 1888, will apply to any order for the purposes of the present Act that may be made under Section 57 of that Act, and Section 69 of the new Act provides that in any case where an alteration of any area is made by the Act, an order may be made, in the case of an area situate in more than one county, by a joint committee of county councils, for any of the matters mentioned in Section 59 of the Act of 1888. Under these powers adjustments may be made of any property, debts, and liabilities affected by the alteration, and directions may be given for effecting any subsidiary arrangements rendered necessary by the alteration.

Sub-section (12) of Section 36 requires that every report made by the Boundary Commissioners under the Local Government Boundaries Act, 1887, shall be laid before the council of any borough affected by that report, and before any joint committee of the councils of counties or county boroughs. The sub-section further provides that it shall be the duty of the councils and joint committees to take these reports into consideration before framing any order under the powers conferred on them by the Act. The town council or joint committee will not be bound to give effect to the recommendations of the Commissioners, but the reports in question will be found to be of assistance in arriving at a decision in regard to any matter dealt with therein.

II.—GUARDIANS.

The Act makes important alterations in the qualification, mode of election, and retirement of guardians; and the Board desire to refer the town council generally to the provisions of Section 20 on these matters. It may be observed that guardians will only be elected in urban parishes. In a rural parish one or more rural district councillors will be elected, who will represent the parish on the board of guardians (Section 24 [3]).

Under sub-section (1) of Section 60 of the Act the town council of a county borough will, where a union or parish under a separate board of guardians is co-extensive with the borough, or wholly included in it, have power to fix or alter the number of guardians to be elected for any parish comprised in the union or for the separate parish, as the case may be; and it is provided that for those purposes the council may exercise powers of adding parishes to each other and dividing parishes into wards, similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the board.

The power to add parishes to each other for the purpose of the election of guardians is conferred on the board by Section 6 of the

Poor Law Amendment Act, 1868 (31 & 32 Vict., c. 122). That section provides that the board may add any parish in a union, the population of which does not exceed 300, and the aggregate rateable value of which does not exceed the average rateable value of the parishes in the same union, to some adjoining parish in the union for the purpose of the election of guardians. The town council will thus be able to add any such parish within the borough to any other parish therein, for the purpose of the election of guardians.

The power conferred on the Board by the Poor Law Acts to divide parishes into wards for the election of guardians is contained in Section 12 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict., c. 61), which enables the Board to divide any parish into wards for the election of guardians, and to determine the number of guardians to be elected for each ward, due regard being had to the value of the rateable property therein.

Under Sections 20 and 60 of the new Act, the town council will have to consider what provision should be made as to the retirement of guardians for any union or any parish under a separate board of guardians which is wholly comprised in the borough. The first of these sections provides generally that the term of office of a guardian shall be three years, and that one third, as nearly as may be, of every board of guardians shall go out of office on the 15th April in each year. Where, however, the council on the application of a board of guardians consider that it would be expedient to provide for the simultaneous retirement of the whole board, they may, if the union or parish is wholly comprised in the borough, direct that the members shall retire together on the 15th April in every third year. Where a union or a parish under a separate board of guardians is only partly within the county borough, an order for this purpose may be made by a joint committee of the councils of the county and county borough concerned. There are some cases in which at the present time the whole of the guardians retire at the end of every third year in pursuance of an order of the Board, and in any such case, where a county borough is concerned, the guardians are to continue so to retire, unless the town council, or a joint committee of the councils of the county and county borough, on the application of the board of guardians, or of any district council of a district wholly or partially within the union, otherwise direct.

Section 24 makes the provisions of the Act with respect to the term of office and retirement of guardians applicable to the district councillors of a rural district.

Section 60 provides that the council of each county as defined by the Act may for the purpose of regulating the retirement of guardians or rural district councillors in cases where they retire by thirds, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire.

Where the union is situate in more than one county, the power of fixing or altering the number of guardians or rural district councillors, and in connection therewith of dividing a parish into wards, and also the power of regulating the retirement of guardians and of district councillors, is to be exercised by a joint committee of the councils of the counties concerned; but if any of those councils do not, within two months after request from any

other of them, appoint members of such joint committee, the members of the committee actually appointed will have power to act as the joint committee. If any order made by a joint committee under this provision is within six weeks after the making thereof objected to by any of the county or county borough councils concerned, or by any committee of any of those councils authorised in that behalf, the order will be inoperative until confirmed by the Board (Section 60 [3]).

Where the guardians and rural district councillors are to retire by thirds, in accordance with the rule prescribed by Section 20, it will be necessary, as the full number of guardians or district councillors will be elected at the first election, to provide for retirements in the years 1896 and 1897. There will be no retirements under the Act before 1896 (Section 79). The question as to the guardians and rural district councillors who will have to retire in the two years mentioned is, under sub-section (4) of Section 79, to be determined by the council of the county or county borough with reference to the parishes, wards, or other areas for which the guardians or councillors are elected. It will be necessary in the case of a union or a parish under a separate board of guardians partly within and partly without a county borough, that a joint committee of the county and county borough councils should, as above mentioned, be appointed for this purpose.

III.—MISCELLANEOUS.

Sub-section (7) of Section 48 of the Act requires the council of every county borough to fix a scale for the expenses of elections of guardians for the borough. If, at the beginning of one month before the first election, the council have not framed any such scale, the Board will have power to frame a scale for the purposes of that election. The Board will be glad to receive a copy of the scale framed by the council under this section as soon as it has been approved by the council. In any case where a union or parish under a separate board of guardians is partly but not wholly comprised in a county borough, it appears to the Board that it will be necessary that a joint committee of the county and county borough councils concerned should be appointed under Section 81 of the Local Government Act, 1888, for the purpose of framing a scale of expenses for the election of guardians, and the Board would wish to be furnished with a copy of the scale framed by any such committee.

Under Sections 48 and 80 the town council will have very extensive powers for the removal of any difficulties that may arise in connection with the election of guardians, and generally in bringing the Act into operation. Sub-section (5) of Section 48 provides that if any difficulty arises as respects the election of any individual guardian, and there is no provision for holding another election, the council may order a new election to be held, and give such directions as may be necessary for the purpose of holding the election.

Under Section 80, if any difficulty arises with respect to the holding of the first election of guardians, or to the first meeting of a board of guardians, or if, from no election being held, or an election being defective or otherwise, the first board of guardians has not been properly constituted, the council may, by order, make any appointment or do any thing which appears to them necessary or expedient

for the proper holding of any such first meeting or election and properly constituting the board of guardians, and may, if it appears to them necessary, direct the holding of an election, and fix the necessary dates for the purpose. Any such order may modify the provisions of the Act, and the enactments applied by, or rules framed under it, so far as may appear to the council necessary or expedient for carrying the order into effect. Where the union or parish under a separate board of guardians is partly in a county borough and partly in an administrative county, and any difficulty such as is mentioned in Section 80 arises, a joint committee should be appointed to deal with the matter by the councils of the county and county borough under Section 81 of the Act of 1888.

It is now necessary to refer to the provisions which will govern the procedure of the town council in regard to the issue of orders for the purposes mentioned above.

Sub-section (10) of Section 36 in effect directs that, subject to the provisions of the Act, any order made by the town council of a county borough, or by a joint committee, in pursuance of Part III of the Act (as to areas and boundaries), shall be deemed to be an order under Section 57 of the Local Government Act, 1888. Every such order will consequently have to be made in accordance with the provisions of that section, and of the regulations issued by the Board thereunder, and with the exceptions mentioned in Section 40 of the new Act will require confirmation by the Board in the manner prescribed by Section 57 of the Act of 1888.

An important amendment of the section last mentioned is made by Section 41 of the new Act, which provides that the time for petitioning the Board against an order under the section shall be six weeks, instead of three months, after the first notice of the provisions of the order.

The Act also provides that any board of guardians affected by an order under Part III of the Act are to have the same right of petitioning against the order as is given by Section 57 of the Act of 1888 to other authorities (Section 36 [10]); and that where any of the areas referred to in Section 57 of the Act of 1888 is situate in two or more counties, as defined by the Act of 1894, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee appointed by the councils of those counties is, subject to the terms of delegation, to be deemed to have and to have always had power to make orders under the section with respect to that area (Section 36 [11].)

In connection with the orders of the town council under this Act, it may be pointed out that by Section 42 it is provided that in any case where an order under Section 57 of the Act of 1888 (including any order made or deemed to have been made thereunder for the purposes of this Act) has been confirmed by the Board, such order is at the expiration of six months from the date of confirmation to be presumed to have been duly made, and to be within the powers of that section, and no objection to the legality thereof can be entertained.

A copy of every order made by the council of a county borough or joint committee in pursuance of the Act is to be sent to the Board, and, if it alters any local area or name, a copy must be sent also to the Board of Agriculture (Section 71).

Sub-section (2) of Section 80 requires that the Board shall issue regulations for expediting and simplifying the procedure under

Section 57 of the Act of 1888 in all cases in the year 1894, for the purpose of bringing the Act into immediate operation.

The Board have issued an order for this purpose, which, as regards the cases referred to, will take the place of any regulations previously made by them as to the procedure under Section 57 of the Act of 1888, which are in force in any county borough, except where notice of a local inquiry has been given before the date of the order.

It will be observed that under Article VIII the expression "council," as used in the order, will include a committee of the town council of any county borough to whom the council have delegated their powers under the Act of 1894, and also a joint committee appointed by any such councils or by any such council or councils and the county council or councils of any administrative county or counties, for the purpose of dealing with any case or cases in which such councils are jointly interested.

The Board enclose six copies of the order, and they have caused it to be placed on sale. If, therefore, further copies are required, they can be purchased from Messrs. Eyre and Spottiswoode, East Harding Street, London, E.C., either directly or through any bookseller. Copies of this circular can also be purchased in the same way.

Section 44 contains provisions as to the register of the parochial electors which is to be formed as well for urban as for rural parishes, for the purposes of elections under the Act. The Board do not consider it necessary to refer to these provisions in detail; but the attention of the town council should be directed to the proviso to sub-section (3) of Section 84, under which, if the council or a joint committee have under consideration any division into wards or alteration of the boundaries of any parish, or union, which is to affect the first election, they may direct that the lists of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish or union, or for the same when divided or altered.

In making any such division or alteration at any time in the month of July or August next, the council or a joint committee may direct such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward or union in which his qualification is situate, and it will be the duty of the town clerk to give effect to any such direction (Section 84).

Some inquiries have been addressed to the Board with respect to the powers of joint committees appointed in pursuance of the Act, and the Board may state that they are advised that the provisions of Section 81 of the Local Government Act, 1888, apply to joint committees formed for any of the purposes mentioned in sub-section (11) of Section 36 of the present Act, and also to joint committees formed for the purposes of Section 60 of that Act. The Board consider, therefore, that, subject to an appeal to them in cases coming under Section 36 (11) if the councils do not agree, the powers of the joint committee could be restricted by the councils appointing them by the terms of delegation, and, if those councils thought fit, those terms might be such as to make the proceedings of the committee subject to confirmation by the councils. The Board may add, however, that in their opinion it is very desirable that, as a general rule, the terms of delegation

should be such as not to render any confirmation necessary. The same remarks apply to cases where, for any purposes connected with the Act of 1894 in respect of which two or more county councils (as defined by that Act) are jointly interested, a joint committee of those councils is appointed, although the Act contains no express provision for such an appointment.

I am, Sir,

Your obedient Servant,

HUGH OWEN, Secretary.

The Town Clerk.

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